

District of Columbia Code

1981 Edition



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DISTRICT OF COLUMBIA CODE

ANNOTATED

1981 EDITION

With Provision for Subsequent Pocket Parts

CONTAINING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE,
RELATING TO OR IN FORCE IN THE DISTRICT OF COLUMBIA (EXCEPT
SUCH LAWS AS ARE OF APPLICATION IN THE DISTRICT OF
COLUMBIA BY REASON OF BEING GENERAL AND
PERMANENT LAWS OF THE UNITED STATES), AS OF
APRIL 12, 1997, AND NOTES
TO DECISIONS THROUGH
MARCH 1, 1997

VOLUME 10

1997 REPLACEMENT

TITLE 47—TAXATION AND FISCAL AFFAIRS

TITLE 48—TRADE PRACTICES

TITLE 49—COMPILATION AND CONSTRUCTION OF CODE

Prepared and Published Under Authority of the Council of the District
of Columbia as supervised by the Office of the General Counsel,
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MICHIE

CHARLOTTESVILLE, VIRGINIA

1997

DISTRICT OF COLUMBIA
CODE
ANNOTATED
1981 EDITION
With Provisions for Subsequent Pocket Parts
CONTAINING THE LAWS, ORDINANCES AND RESOLUTIONS IN THEIR ENTIRE
RELATING TO OR IN FORCE IN THE DISTRICT OF COLUMBIA, EXCEPT
SUCH LAWS AS HAVE BEEN REPEALED OR REVOKED, AND
COLUMBIA, BY
THE DISTRICT OF COLUMBIA
PERMANENTLY REPEALED LAWS, AS OF

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IN MEMORY OF
DAVID ALLEN CLARKE
1943 - 1997

Whose lifetime of service to District residents and employees of the District government exemplified all that is honorable in a lawyer and public servant. David Clarke was the Chairman of the Council of the District of Columbia from January 2, 1983, to January 2, 1991, and from September 1993 until his death on March 27, 1997. Under his leadership the Council adopted the first enacted title to the D.C. Code since the 1974 enactment of Home Rule in the District—the enactment of Title 47 of the D.C. Code. Through his legislative initiatives, the Council of the District of Columbia passed a wealth of legislation beneficial to the citizens of the District. His court challenges helped to further develop the body of law in the District as it pertains to initiatives, First Amendment rights of Council members, and the controls on firearms. Because of the determination of David A. Clarke, the people of the District of Columbia now have better access to and confidence in their laws and will enter the next century better prepared to face the challenges that lie ahead.

USER'S GUIDE

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Code intended to increase the usefulness of the Code to the user.

TITLES OF DISTRICT OF COLUMBIA CODE

PART I.—GOVERNMENT OF DISTRICT

Title

1. Administration.
2. District Boards and Commissions.
3. Public Care Systems.
4. Police and Fire Departments.
5. Building Restrictions and Regulations.
6. Health and Safety.
7. Highways, Streets, Bridges.
8. Parks and Playgrounds.
9. Public Buildings and Grounds.
10. Weights, Measures, and Markets.

PART II.—JUDICIARY AND JUDICIAL PROCEDURE

- *11. Organization and Jurisdiction of the Courts.
- *12. Right to Remedy.
- *13. Procedure Generally.
- *14. Proof.
- *15. Judgments and Executions; Fees and Costs.
- *16. Particular Actions, Proceedings and Matters.
- *17. Review.

PART III.—DECEDENTS' ESTATES AND FIDUCIARY RELATIONS

- *18. Wills.
- *19. Descent and Distribution.
- *20. Probate and Administration of Decedents' Estates.
- *21. Fiduciary Relations and the Mentally Ill.

PART IV.—CRIMINAL LAW AND PROCEDURE

22. Criminal Offenses.
- *23. Criminal Procedure.
24. Prisoners and Their Treatment.

PART V.—GENERAL STATUTES

25. Alcoholic Beverages.

*Title has been enacted as law.

Title

26. Banks and Other Financial Institutions.
27. Cemeteries and Crematories.
- *28. Commercial Instruments and Transactions.
29. Corporations.
30. Domestic Relations.
31. Education and Cultural Institutions.
32. Eleemosynary, Curative, Correctional, and Penal Institutions.
33. Food and Drugs.
34. Hotels and Lodging Houses.
35. Insurance.
36. Labor.
37. Libraries.
38. Liens.
39. Military.
40. Motor Vehicles and Traffic.
41. Partnerships.
42. Personal Property.
43. Public Utilities.
44. Railroads and Other Carriers.
45. Real Property.
46. Social Security.
- †47. Taxation and Fiscal Affairs.
48. Trademarks and Trade Names.
49. Compilation and Construction of Code.

*Title has been enacted as law.

†Title has been enacted as law, except Charter Provisions (Title IV of the District of Columbia Self-Government and Governmental Reorganization Act).

Table of Contents

Title 47

Taxation and Fiscal Affairs

CHAPTER	PAGE
1. General Provisions	2
1A. Tax Return Preparers	21
1B. Crediting of Tax Refunds Against Delinquent Taxes	26
2. Budget Estimates	29
2A. Performance and Financial Accountability	34
3. Budget and Financial Management; Borrowing; Deposit of Funds	38
4. Collection and Disbursement of Taxes	216
5. Tax Rates, Records, and Surplus Funds	249
6. Tax Assessor	252
7. Designation of Real Property for Assessment and Taxation	254
8. Real Property Assessment and Tax	259
9. Transfer Tax on Real Property	348
10. Property Exempt from Taxation	361
11. Family Dwellings Occupied by Owners	393
12. Special Assessments	395
12A. Health Care Provider Assessments [Expired]	403
12B. Health Care Provider Assessment Act of 1995	404
13. Real Property Tax Sales	412
14. Residential Real Property Transfer Excise Tax	437
15. Taxation of Personal Property	452
16. Enforcement of Personal Property Taxes by Distrainment or Levy	467
17. Enforcement of Personal Property Taxes by Acquisition of Lien	471
18. Income and Franchise Taxes	478
19. Inheritance and Estate Taxes	586
20. Gross Sales Tax	588
21. Closing-Out Sales	627
22. Compensating-Use Tax	631
23. Motor Fuel Tax	646
24. Cigarette Tax	664
25. Financial Institution, Guaranty Company, and Public Utility Taxes	683
26. Insurance Companies	697
27. Permits and Fees	705
27A. Special Public Safety Fee	723
28. General License Law	728
29. Admission to Licensed Places; Posting of Price Scale	778
30. Private Employment Agency Licenses	786
31. Consumer Transmission of Money Act	787
31A. Use of Consumer Identification Information	794
32. Hotel Occupancy Tax	796
33. Superior Court, Tax Division	805

CHAPTER	PAGE
34. Miscellaneous Provisions	824
35. Lower Income Homeownership Tax Abatement and Incentives	843
36. Employee Deferred Compensation Program	851
37. Inheritance and Estate Taxes	854
38. Supermarket Tax Incentives	865
39. Toll Telecommunication Service Tax	867
40. Drug Prevention and Children at Risk Tax Check-Off	879

Title 48

Trade Practices

1. Registration of Beverage Bottles	883
2. Registration of Milk Containers	884
3. Registration of Containers for Beverages Composed Principally of Milk	888
4. Registration of Labor Union Labels	891
5. Trade Secrets	893

Title 49

Compilation and Construction of Code

1. General Provisions	897
2. Rules of Construction	899
3. Laws Remaining in Force	901
4. Law Revision Commission	907
5. Nonrevival of Statutes	911
6. General Rule of Severability	912

TITLE 47. TAXATION AND FISCAL AFFAIRS.

Chapter

1. General Provisions.....	§§ 47-101 to 47-142.
1A. Tax Return Preparers.....	§§ 47-161 to 47-170.
1B. Crediting of Tax Refunds Against Delinquent Taxes.....	§§ 47-171 to 47-176.
2. Budget Estimates.....	§§ 47-201 to 47-215.
2A. Performance and Financial Accountability.....	§§ 47-231 to 47-235.
3. Budget and Financial Management; Borrowing; Deposit of Funds.....	§§ 47-301 to 47-398.5.
4. Collection and Disbursement of Taxes.....	§§ 47-401 to 47-459.
5. Tax Rates, Records, and Surplus Funds.....	§§ 47-501 to 47-504.
6. Tax Assessor.....	§§ 47-601 to 47-602.
7. Designation of Real Property for Assessment and Taxation.....	§§ 47-701 to 47-709.
8. Real Property Assessment and Tax.....	§§ 47-801 to 47-874.
9. Transfer Tax on Real Property.....	§§ 47-901 to 47-922.
10. Property Exempt from Taxation.....	§§ 47-1001 to 47-1044.
11. Family Dwellings Occupied by Owners.....	§§ 47-1101 to 47-1105.
12. Special Assessments.....	§§ 47-1201 to 47-1207.
12A. Health Care Provider Assessments.....	[Expired].
12B. Health Care Provider Assessment Act of 1995...	§§ 47-1241 to 47-1352.
13. Real Property Tax Sales.....	§§ 47-1301 to 47-1319.
14. Residential Real Property Transfer Excise Tax...	§§ 47-1401 to 47-1471.
15. Taxation of Personal Property.....	§§ 47-1501 to 47-1536.
16. Enforcement of Personal Property Taxes by Distrain or Levy.....	§§ 47-1601 to 47-1605.
17. Enforcement of Personal Property Taxes by Acquisition of Lien.....	§§ 47-1701 to 47-1712.
18. Income and Franchise Taxes.....	§§ 47-1801.1 to 47-1816.3.
19. Inheritance and Estate Taxes.....	§§ 47-1901 to 47-1936.
20. Gross Sales Tax.....	§§ 47-2001 to 47-2032.
21. Closing-Out Sales.....	§§ 47-2101 to 47-2110.
22. Compensating-Use Tax.....	§§ 47-2201 to 47-2214.
23. Motor Fuel Tax.....	§§ 47-2301 to 47-2325.
24. Cigarette Tax.....	§§ 47-2401 to 47-2418.
25. Financial Institution, Guaranty Company, and Public Utility Taxes.....	§§ 47-2501 to 47-2515.
26. Insurance Companies.....	§§ 47-2601 to 47-2611.
27. Permits and Fees.....	§§ 47-2701 to 47-2718.
27A. Special Public Safety Fee.....	§§ 47-2751 to 47-2753.
28. General License Law.....	§§ 47-2801 to 47-2849.
29. Admission to Licensed Places; Posting of Price Scale.....	§§ 47-2901 to 47-2911.
30. Private Employment Agency Licenses.....	[Repealed].
31. Consumer Transmission of Money Act.....	§§ 47-3101 to 47-3117.

Chapter

- 31A. Use of Consumer Identification Information.... §§ 47-3151 to 47-3154.
- 32. Hotel Occupancy Tax..... §§ 47-3201 to 47-3221.
- 33. Superior Court, Tax Division..... §§ 47-3301 to 47-3310.
- 34. Miscellaneous Provisions..... §§ 47-3401 to 47-3410.
- 35. Lower Income Homeownership Tax Abatement
and Incentives..... §§ 47-3501 to 47-3507.
- 36. Employee Deferred Compensation Program..... §§ 47-3601 to 47-3604.
- 37. Inheritance and Estate Taxes..... §§ 47-3701 to 47-3723.
- 38. Supermarket Tax Incentives..... §§ 47-3801 to 47-3804.
- 39. Toll Telecommunication Service Tax..... §§ 47-3901 to 47-3921.
- 40. Drug Prevention and Children at Risk Tax
Check-Off..... §§ 47-4001 to 47-4005.

Enactment of Title 47. — Section 2 of D.C. Law 11-254 enacted Title 47 of the District of Columbia Code into law. D.C. Law 11-254 did not affect Charter provisions, i.e., those provisions derived from Title IV of the Self-Government and Governmental Reorganization Act, Public Law 93-198. D.C. Law 11-254 has been added to the historical citation of each provision of the title in existence at the time of its introduction in Council except for Charter provisions.

Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

D.C. Law 11-254 did not make substantive changes to the provisions of Title 47; the only

changes were technical corrections. No attempt has been made to detail each of these changes in an Effect of Amendment note.

Tribute to Chairman Clarke. — Chairman David A. Clarke was instrumental in the enactment of Title 47 into law. His efforts are hereby gratefully acknowledged. Under the leadership of Chairman Clarke the Council adopted Title 47 as the first enacted title to the D.C. Code since the 1974 enactment of Home Rule in the District.

Legislative history of Law 11-254. — Law 11-254, the “Title 47, D.C. Code Enactment Act of 1996,” was introduced in Council and assigned Bill No. 11-865, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-518 and transmitted to both Houses of Congress for its review. D.C. Law 11-254 became effective April 9, 1997.

CHAPTER 1. GENERAL PROVISIONS.

Sec.

- 47-101. Commencement of fiscal year [Charter Provision].
- 47-102. Total indebtedness not to be increased.
- 47-103. Appointed officers to give security for intrusted moneys.
- 47-104. Unlawful diversion of tax money.
- 47-105. Applicability of antideficiency provisions.
- 47-106. Appropriations for contingent expenses — Apportionment.
- 47-107. Same — Expenditures.
- 47-108. Repeal of certain federal appropriation provisions.
- 47-109. Abolishment of certain federal appropriations.
- 47-110. [Repealed].
- 47-111. Disbursing Officer; appointment; bond;

Sec.

- general powers and duties; audit of accounts.
- 47-112. Nonliability for overpayments on government bills of lading or transportation requests.
- 47-113. Deputy Disbursing Officer and assistant disbursing officers — Appointment.
- 47-114. Same — Authority and duties.
- 47-115. Same — Liability for misconduct; bond.
- 47-116. Suspension of items in Disbursing Officer's accounts.
- 47-117. Auditor; appointment, tenure, and compensation; duties; accessibility of records; reports [Charter Provision].
- 47-118. [Repealed].

- | | |
|---|--|
| <p>Sec.</p> <p>47-118.1. Annual audit of accounts and operations of District government by Comptroller General.</p> <p>47-119. Independent annual audit.</p> <p>47-120. Liability of Auditor or employees.</p> <p>47-121. Enforcement of liability of persons certifying vouchers.</p> <p>47-122. Checks to be countersigned.</p> <p>47-123. Chief Clerk of Auditor's office.</p> <p>47-124. Accounts auditable by Auditor.</p> <p>47-125. Outstanding checks of Disbursing Officer — Amounts to be deposited into Treasury.</p> <p>47-126. Same — Payment of amounts.</p> <p>47-127. Payment of fees into Treasury.</p> <p>47-128. Court fees and fines to be credited to District.</p> <p>47-129. Revenues credited to General Fund.</p> <p>47-130. Composition of General Fund; establishment of special funds; deposits in funds [Charter Provision].</p> | <p>Sec.</p> <p>47-131. Establishment of General Fund and special accounts; audit of closed special funds.</p> <p>47-132. Payment into Treasury of moneys received from sales of animals and materials.</p> <p>47-133. Investment of funds in federal securities.</p> <p>47-134. Establishment of working fund — Maintenance and repair of vehicles.</p> <p>47-135. Same — Printing, duplicating, and photographing.</p> <p>47-136. Restoration of lapsed appropriations.</p> <p>47-137. Capital outlay appropriations.</p> <p>47-138. Use of appropriated funds to promote demonstrations to influence legislation or other governmental actions.</p> <p>47-139 to 47-142. [Repealed].</p> |
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§ 47-101. Commencement of fiscal year [Charter Provision].

The fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the 30th day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year. However, the fiscal year for the Armory Board shall begin on the first day of January and shall end on the 31st day of December of each calendar year. (1973 Ed., § 47-101; Dec. 24, 1973, 87 Stat. 798, Pub. L. 93-198, title IV, § 441; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(3); Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 1.)

Charter provisions. — This section of the D.C. Code is § 441 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as

part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Temporary Commission on Financial Oversight of the District of Columbia. — Sections 1 to 3 and 5 to 7 of the Act of September 4, 1976, 90 Stat. 1205, Pub. L. 94-399, as amended by the Act of September 26, 1978, 92 Stat. 750, Pub. L. 95-386 and the Act of June 21, 1979, 93 Stat. 75, Pub. L. 96-27, provided for the establishment of the Temporary Commission on Finance Oversight of the District of Columbia for the purpose of improving the financial planning, reporting, and control systems of the District government. 31 U.S.C. § 715 sets up audit of accounts in D.C. on a permanent basis as of 1982 in § 47-118.1.

Definitions applicable. — The definitions in § 1-202 apply to this section.

Cited in *Spivey v. Barry*, 665 F.2d 1222 (D.C. Cir. 1981).

§ 47-102. Total indebtedness not to be increased.

There shall be no increase of the amount of the total indebtedness of the District of Columbia existing on June 11, 1878; and any officer or person who shall knowingly increase, or aid or abet in increasing, such total indebtedness, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by imprisonment not exceeding 10 years, and by fine not exceeding \$10,000. (June 11, 1878, 20 Stat. 108, ch. 180, § 13; 1973 Ed., § 47-102; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-103. Appointed officers to give security for intrusted moneys.

All officers appointed by the President for the District, who, by virtue of the provisions of any law of Congress, are required to give security for moneys that may be intrusted to them for disbursement, shall give such security at such time and in such manner as the Secretary of the Treasury may prescribe. (R.S., D.C., § 87; 1973 Ed., § 47-103; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to required bond for Disbursing Officer, see § 47-111.

As to required bond for Collector of Taxes, see § 47-401.

§ 47-104. Unlawful diversion of tax money.

It shall not be lawful for the District authorities, or any person charged with the disbursements of money in the District, to divert from its legitimate object any money levied or collected as taxes from the people of the District. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor in office, and be dismissed therefrom. (R.S., D.C., §§ 116, 118; 1973 Ed., § 47-104; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-105. Applicability of antideficiency provisions.

The provisions of §§ 1341, 1342, and 1349 to 1351 and subchapter II of Chapter 15 of Title 31, United States Code, are hereby extended and made applicable in all respects to appropriations made for and expenditures of and to all of the officers and employees of the government of the District of Columbia. (June 26, 1912, 37 Stat. 184, ch. 182, § 9; 1973 Ed., § 47-105; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-106. Appropriations for contingent expenses — Apportionment.

The Mayor of the District of Columbia shall, on or before the beginning of each fiscal year, so apportion appropriations made for contingent and miscellaneous expenses under the Metropolitan Police, Fire Department, Department of Licenses, Investigation and Inspections, and other offices or departments of the government of the District of Columbia as to prevent deficiencies

in said appropriations. (July 1, 1902, 32 Stat. 561, ch. 1351; 1973 Ed., § 47-106; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Transfer of functions. — Reorganization Order No. 55, dated June 30, 1953, established a Department of Licenses and Inspections and transferred to such Department all functions of the Electrical Inspection Section in the former Department of Inspections. Functions of the Department of Licenses and Inspections were

transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969, which which was replaced by the Department of Licenses, Investigation and Inspections, created by Mayor's Order 78-42, dated February 17, 1978.

§ 47-107. Same — Expenditures.

All expenditures from appropriations made for contingent expenses of the District of Columbia shall be accounted for in the General Accounting Office as other expenditures for the District, and a detailed statement of such expenditures shall be reported to Congress in accordance with § 193 of the Revised Statutes of the United States (§ 492-2 of Title 31, United States Code). (Feb. 25, 1885, 23 Stat. 319, ch. 145; July 18, 1888, 25 Stat. 314, ch. 676; June 10, 1921, 42 Stat. 24, ch. 18, § 304; 1973 Ed., § 47-107; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “§ 193 of the Revised Statutes of the United States (§ 492-2 of Title 31, United States Code),” referred to at the end of this section, was repealed by § 5(b) of Pub. L. 97-258, approved September 13, 1982.

Cited in United States ex rel. Skinner & Eddy Corp. v. McCarl, 275 U.S. 1, 48 S. Ct. 12, 72 L. Ed. 131 (1927).

§ 47-108. Repeal of certain federal appropriation provisions.

(a) Effective July 1, 1935, such portion of any acts as provide appropriations from the appropriation accounts appearing on the books of the government and listed in subsection (b) of this section are hereby repealed, and any balances remaining in, or but for this provision would accrue to, such accounts shall be covered into the Treasury of the United States to the credit of the District of Columbia. Any claims accruing on or after July 1, 1935, which but for this section properly would have been charged to these appropriation accounts shall, upon proper audit, be certified to Congress for appropriation, which is hereby authorized.

- (b)(1) Militia fund from fines, District of Columbia (DCs592).
- (2) Industrial Home School Fund, District of Columbia (DCs463).
- (3) Sanitary Fund, District of Columbia (DCt619).
- (4) New site and buildings, Industrial Home School, District of Columbia (DCs460).
- (5) Payment to tenants of excess rentals recovered by Rent Commission, District of Columbia (DCs087).
- (6) Escheated Estates Relief Fund, District of Columbia (DCs612).
- (7) Redemption of tax-lien certificates, District of Columbia (DCt618).
- (8) Washington Special Tax Fund, District of Columbia (DCt623).

(9) Redemption of assessment certificates, District of Columbia (DCt617). (June 26, 1934, 48 Stat. 1230, ch. 756, § 13; 1973 Ed., § 47-108; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-109. Abolishment of certain federal appropriations.

(a) On and after July 1, 1935, appropriations for the District of Columbia appearing on the books of the government and listed in subsection (b) of this section are abolished as such, and so much of the several acts as provide for such appropriations is amended so as to authorize in lieu thereof annual definite appropriations, estimates for which shall be incorporated in the estimates of annual appropriations for the District of Columbia.

(b)(1) Refunding water rents, and so forth, District of Columbia (DCx602).

(2) Refunding taxes, District of Columbia (DCx601).

(3) Extension, and so forth, of streets and avenues, District of Columbia (fiscal year) (DCx114).

(4) Policemen and Firemen's Relief Fund, District of Columbia (DCt614). (June 26, 1934, 48 Stat. 1230, ch. 756, § 14; 1973 Ed., § 47-109; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-110. Continuation of certain federal funds.

Repealed. Sept. 13, 1982, 96 Stat. 877, Pub. L. 97-258, § 5(b).

Cross references. — As to reenactment of this provision in the United States Code, see 31 U.S.C. §§ 1321 and 1322.

§ 47-111. Disbursing Officer; appointment; bond; general powers and duties; audit of accounts.

(a) The Disbursing Officer shall be appointed by the Mayor of the District of Columbia, and shall give bond to the United States in the sum of \$50,000, for the benefit of the United States, the District of Columbia, the Mayor of the District of Columbia, and all persons interested conditioned for the faithful performance of the duties of his office in the disbursing and accounting, according to law, for all moneys of the United States and of the District of Columbia that may come into his hands, which bond shall be approved by the Mayor and the Secretary of the Treasury and be filed in the office of the Secretary of the Treasury; provided, that advances in money shall be made, on the requisition of the Mayor, to the said Disbursing Officer instead of to the Mayor, and he shall account for the same as required by § 47-409. Said Disbursing Officer shall be subordinate to the Mayor, and he shall in every respect be responsible to the United States, the District of Columbia, and to individuals for the acts and doings of said Disbursing Officer.

(b) The Disbursing Officer is authorized to pay laborers and employees of the District of Columbia, and such payments shall be made upon payrolls or other vouchers audited and approved by the Auditor of the District of

Columbia, and certified by the Mayor as required by § 47-409. Said payrolls and other vouchers shall be included in the account of the Mayor.

(c) The accounts of the Disbursing Officer shall be audited by the Auditor of the District of Columbia, who shall promptly forward the same to the Mayor for his approval. (Mar. 3, 1891, 26 Stat. 1064, ch. 546; July 14, 1892, 27 Stat. 151, ch. 171; June 30, 1898, 30 Stat. 526, ch. 540; 1973 Ed., § 47-112; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to requisitions and vouchers of disbursements, see § 47-410.

Deputy Mayor for Office of Financial Management established. — See Mayor's Order 83-19, January 3, 1983.

Disbursing Office abolished. — The Disbursing Office was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, established under the direction and control of the Board of Commissioners a Department of General Administration headed by a Director. The Order transferred to the Director of General Administration all of the functions of the abolished Office. Reorganization Order No. 20 established the Finance Office in the Department of General Administration. Included in the Finance Office were an Office of the Assessor, the Office of the Collector of Taxes, the Disbursing Office, and the Accounting Office headed by an Accounting Officer. The function of approving vouchers and requisitions was delegated to the Accounting Officer by that Order. Reorganization Order No. 20 was replaced by Organization Order No. 121. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 3 and Organization Order No. 121 were revoked by Organization

Order No. 3 of the Commissioner of the District of Columbia, dated December 13, 1967. Organization Order No. 3 established within the newly created Department of General Administration a Finance Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. Functions pertaining to centralized accounting (including approving vouchers and requisitions) as set forth in that Order were transferred to the Director of the Office of Budget and Financial Management by Organization Order No. 30, dated April 5, 1972. The Office of Budget and Financial Management was replaced by Organization Order 50, dated December 31, 1974, which Order established the Office of Budget and Management Systems. The disbursing and accounting functions of the Office of Budget and Management Systems were replaced by Mayor's Order 79-6, dated January 2, 1979, which Order established the Office of Financial Management. The Office of Financial Management was then re-established by 47-314 on March 5, 1981.

Disbursing Officer's faults not imposed upon Auditor. — This section does not impose responsibility for the faults of the Disbursing Officer upon the Auditor. *District of Columbia v. Petty*, 229 U.S. 593, 33 S. Ct. 881, 57 L. Ed. 1343 (1913).

§ 47-112. Nonliability for overpayments on government bills of lading or transportation requests.

Notwithstanding the provisions of §§ 47-112, 47-120, and 47-121, or any other act to the contrary, neither the Disbursing Officer of the District of Columbia nor the Auditor of the District of Columbia or any employee in his office authorized by him to certify vouchers, pursuant to the provisions of §§ 47-112, 47-120, and 47-121, shall be held liable for overpayments made for transportation furnished on government bills of lading or transportation requests when said overpayments are due to the use of improper transportation rates, classifications, or the failure to deduct the proper amount under land grant laws or equalization and other agreements. (July 30, 1951, 65 Stat. 125, ch. 246, § 3; 1973 Ed., § 47-112b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-121.

Disbursing Office abolished. — See note to § 47-111.

§ 47-113. Deputy Disbursing Officer and assistant disbursing officers — Appointment.

The Mayor of the District of Columbia shall appoint a Deputy Disbursing Officer of the District of Columbia and such assistant disbursing officers of the District of Columbia as he may, in his discretion and subject to available appropriations, consider necessary, such Deputy Disbursing Officer and assistant disbursing officers to be subordinated to the Disbursing Officer, District of Columbia. (July 30, 1951, 65 Stat. 127, ch. 250, § 1; 1973 Ed., § 47-113a; Mar. 3, 1979, D.C. Law 2-139, § 3205(q), 25 DCR 5740; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-637.1.

Legislative history of Law 2-139. — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was

adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Disbursing Office abolished. — See note to § 47-111.

§ 47-114. Same — Authority and duties.

The Deputy Disbursing Officer and the several assistant disbursing officers each shall have authority:

(1) To make disbursements as an agent of the Disbursing Officer, District of Columbia;

(2) To sign checks drawn against disbursing accounts of the Disbursing Officer, District of Columbia, with the Treasurer of the United States; and

(3) To discharge all other duties required according to law or regulation to be performed by the Disbursing Officer, District of Columbia. (July 30, 1951, 65 Stat. 127, ch. 250, § 2; 1973 Ed., § 47-113b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

§ 47-115. Same — Liability for misconduct; bond.

The Deputy Disbursing Officer and the several assistant disbursing officers shall each be subject, for his official misconduct, to all liabilities and penalties prescribed by law in like cases for the Disbursing Officer, District of Columbia; and the Deputy Disbursing Officer and each assistant disbursing officer shall give bond to the United States for the benefit of the United States, the District of Columbia, the Mayor of the District of Columbia, and the Disbursing Officer, District of Columbia, conditioned for the faithful performance of the duties of each of their offices in the disbursing and accounting, according to law, for all moneys of the United States and of the District of Columbia that may come

into his hands, which bond shall be in the amount required by the Council of the District of Columbia, but to be not less than \$25,000, and to be subject to approval by the Mayor and the Secretary of the Treasury and to be filed in the office of the Secretary of the Treasury. (July 30, 1951, 65 Stat. 127, ch. 250, § 3; 1973 Ed., § 47-113c; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

§ 47-116. Suspension of items in Disbursing Officer's accounts.

When differences arise in the examination of the accounts of the Disbursing Officer of the District of Columbia, calling for the suspension of any item in said accounts, it shall be the duty of the General Accounting Office to notify the Auditor of the District of Columbia in connection with the Disbursing Officer of the District of Columbia of the grounds of such objections resulting in said suspensions, in order that said Auditor in connection with said Disbursing Officer may by explanation if possible remove said grounds of suspension. (July 1, 1902, 32 Stat. 592, ch. 1352; June 10, 1921, 42 Stat. 24, ch. 18, § 304; 1973 Ed., § 47-119; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to settlement of accounts, see § 47-409.

Disbursing Office abolished. — See note to § 47-111.

§ 47-117. Auditor; appointment, tenure, and compensation; duties; accessibility of records; reports [Charter Provision].

(a) There is established for the District of Columbia the Office of District of Columbia Auditor who shall be appointed by the Chairman, subject to the approval of a majority of the Council. The District of Columbia Auditor shall serve for a term of 6 years and shall be paid at a rate of compensation as may be established from time to time by the Council.

(b) The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he may prescribe. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents and records, the District of Columbia Auditor shall give due regard to generally accepted principles of auditing including the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices.

(c) The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit.

(d) The District of Columbia Auditor shall submit his audit reports to the Congress, the Mayor, and the Council. Such reports shall set forth the scope of the audits conducted by him and shall include such comments and information as the District of Columbia Auditor may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as he may deem advisable.

(e) The Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(f) The Mayor shall state in writing to the Council, within an appropriate time, what action he has taken to effectuate the recommendations made by the District of Columbia Auditor in his reports. (1973 Ed., § 47-120; Dec. 24, 1973, 87 Stat. 803, Pub. L. 93-198, title IV, § 455.)

Charter provisions. — This section of the D.C. Code is § 455 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Cross references. — As to audit of accounts of advisory neighborhood commissions, see § 1-264.

As to audit of Boxing and Wrestling Commission, see § 2-607.

Section references. — This section is referred to in §§ 1-264, 1-604.6, 31-2510, 31-1549, 47-118.1, and 47-341.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-

301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Increase of rate of compensation for District of Columbia Auditor approved. — Pursuant to Resolution 8-69, the “Rate of Compensation for the District of Columbia Auditor Resolution of 1989,” effective June 27, 1989, the Council authorized an increase in the rate of compensation authorized for the District of Columbia Auditor from the rate as may be provided from time to time for grade 16 of the District Schedule to the rate as may be established from time to time for grade 17 of the District Schedule.

Definitions applicable. — The definitions in § 1-202 apply to this section.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-118. Annual audit by General Accounting Office.

Repealed. Sept. 13, 1982, 96 Stat. 877, Pub. L. 97-258, § 5(b).

Cross references. — As to reenactment of this provision, see 31 U.S.C. § 715 and § 47-118.1.

§ 47-118.1. Annual audit of accounts and operations of District government by Comptroller General.

(a) In addition to the audit carried out under § 47-117, the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When

prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall consider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the Comptroller General considers necessary to keep Congress, the Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit. (Sept. 13, 1982, 96 Stat. 877, Pub. L. 97-258, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to audit of accounts and operations of District government, see 31 U.S.C. § 715.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-119. Independent annual audit.

(a) For the fiscal year beginning October 1, 1982, and each fiscal year thereafter, the government of the District of Columbia shall conduct, out of funds of the government of the District of Columbia, an audit of the financial operations of such government, and shall include in such independent audit a report of the revenues of the District of Columbia for the fiscal year, broken down by revenues derived from the Federal Government and revenues derived from sources other than the Federal Government during that fiscal year. Each such audit shall be conducted by a certified public accountant licensed in the District of Columbia and carried out in accordance with generally accepted auditing standards and the financial statements shall be prepared in accordance with generally accepted accounting principles.

(b) For the purpose of conducting an audit for each such fiscal year as required by subsection (a) of this section, the Mayor of the District of Columbia shall, on or after January 2, 1982, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year commencing October 1, 1982, and the next following 3 fiscal years. Thereafter, each individual elected as Mayor in a general election held for Mayor of the District of Columbia shall on or after January 2nd next following his or her election to, and the assuming of the Office of Mayor, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year

commencing October 1st of the calendar year in which the Mayor takes office, and the next following 3 fiscal years. The person previously selected for a 4-year period shall not succeed himself or herself. If the Council fails to act, by resolution on any such selection within a 30-day period following the date on which it receives from the Mayor the name of such person so selected, the Mayor shall be authorized to enter into a contract with that person for the conduct of such audits. If any person so selected by the Mayor to conduct any such audits for such fiscal years is rejected by the Council, the Mayor shall submit to the Council the name of another qualified person selected by the Mayor to conduct such audits. In the event that the Council rejects the 2nd person so selected by the Mayor, the Mayor shall, within 30 days following that rejection, notify the Chairman of the Committee on Appropriations of the Senate and the Chairman of the Committee on Appropriations of the House of Representatives, in writing, of that fact. Within 15 days following the receipt of that notice, such Chairmen shall jointly select a person to conduct such audits and shall inform the Mayor, in writing, of the name of the person so selected. Within 10 days following the receipt by the Mayor of such name, the Mayor shall enter into a contract with such person pursuant to which that person shall conduct such audits for such fiscal years as herein provided.

(c) The Mayor shall submit a copy of the audit report with respect to each such audit so conducted to the Congress, the President of the United States, the Council of the District of Columbia, and the Comptroller General. (1973 Ed., § 47-120-2; Sept. 4, 1976, 90 Stat. 1208, Pub. L. 94-399, § 4; Sept. 26, 1978, 92 Stat. 750, Pub. L. 95-386, § 3; May 10, 1989, D.C. Law 7-231, § 48, 36 DCR 492; Aug. 17, 1991, 105 Stat. 496, Pub. L. 102-102, § 2(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-371.

Legislative history of Law 7-231. — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and

December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-120. Liability of Auditor or employees.

The Auditor of the District of Columbia or any employee in his office duly authorized in writing by such Auditor who certifies a voucher shall:

(1) Be held responsible for the existence and correctness of the facts recorded in the certificate or otherwise stated in the voucher or its supporting papers, including the correctness of computations on such voucher, and for the legality of the proposed payment under the appropriation or fund involved;

(2) Be required to give bond to the United States and to the District of Columbia, with good and sufficient surety, approved by the Secretary of the Treasury, in such amount as may be determined by the Council of the District of Columbia; and

(3) Be held responsible for and required to make good to the United States or to the District of Columbia the amount of any illegal, improper, or incorrect

payment resulting from any false, erroneous, or misleading certification made by him as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved; provided, that the Comptroller General may, in his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds:

(A) That the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained, the actual facts; or

(B) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and that the United States or the District of Columbia has received value for such payment; provided further, that the bond required by this section to be given by the Auditor of the District of Columbia shall be conditioned for the faithful discharge of all of the duties of his office and shall be in lieu of any other bond now required by law. (July 30, 1951, 65 Stat. 125, ch. 246, § 2; 1973 Ed., § 47-120a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-112 and 47-121.

§ 47-121. Enforcement of liability of persons certifying vouchers.

The liability of any person who certifies any voucher pursuant to the provisions of §§ 47-112, 47-120, and 47-121 shall be enforced in the same manner and to the same extent as now provided by law with respect to enforcement of the liability of disbursing and other accountable officers; and they shall have the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment on any vouchers presented to them for verification. (July 30, 1951, 65 Stat. 125, ch. 246, § 4; 1973 Ed., § 47-120b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-112.

§ 47-122. Checks to be countersigned.

The Auditor of the District of Columbia shall continue to prepare and countersign all checks issued by the Disbursing Officer, and no check involving disbursement of public moneys by the Disbursing Officer shall be valid unless countersigned by the Auditor of the District of Columbia. (July 1, 1902, 32 Stat. 592, ch. 1352; 1973 Ed., § 47-121; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

§ 47-123. Chief Clerk of Auditor's office.

The Chief Clerk of the Auditor's Office shall, in the necessary absence or inability from any cause of the Auditor, perform his duties without additional compensation, and shall during the presence of the Auditor perform such duties as shall be prescribed by the Auditor; and the Council of the District of Columbia may require the said Chief Clerk to give bond for the faithful performance of such duties; but the Auditor shall in every respect be responsible to the United States, the District of Columbia, and to individuals, as now provided by law. (Aug. 6, 1890, 26 Stat. 295, ch. 724; Mar. 2, 1911, 36 Stat. 969, ch. 192; 1973 Ed., § 47-122; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-124. Accounts auditable by Auditor.

All accounts for the disbursement of appropriations made either from the revenues of the District of Columbia or jointly from the revenues of the United States and the District of Columbia shall be audited by the Auditor of the District of Columbia before being transmitted to the General Accounting Office, unless otherwise specifically provided in the law making such appropriations; provided, that this provision shall not apply to disbursements on account of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia, and for interest and sinking fund on the funded debt of the District of Columbia, which disbursement shall continue to be audited as heretofore provided by law. (June 30, 1898, 30 Stat. 526, ch. 540; June 10, 1921, 42 Stat. 24, ch. 18, § 304; June 7, 1934, 48 Stat. 926, ch. 426; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; 1973 Ed., § 47-123; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**§ 47-125. Outstanding checks of Disbursing Officer —
Amounts to be deposited into Treasury.**

At the beginning of each fiscal year, or as soon thereafter as may be practicable, the respective amounts represented by checks drawn by the Disbursing Officer of the District of Columbia, or by any former Disbursing Officer of said District, which have remained outstanding, unsatisfied, and unpaid for 3 years or more, shall be deposited by the Treasurer of the United States and covered back into the Treasury by warrant to the credit of a permanent appropriation account to be denominated "Outstanding Liabilities, District of Columbia," and shall be carried to the credit of the respective parties in whose favor such checks were issued upon the books of the Auditor of the District of Columbia, in like manner as the amounts represented by checks of disbursing officers of the United States which have remained outstanding, unsatisfied, and unpaid for 3 years or more are covered back into the Treasury. (Apr. 28, 1904, 33 Stat. 574, ch. 1827, § 1; 1973 Ed., § 47-124; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

§ 47-126. Same — Payment of amounts.

The payee or bona fide holder of any check drawn by the Disbursing Officer of the District of Columbia, or by any former Disbursing Officer of said District, the amount of which has been so covered back into the Treasury of the United States, shall, upon application accompanied with competent and sufficient proof, and the surrender of such check, be paid the amount thereof from the said appropriation account to be denominated "Outstanding Liabilities, District of Columbia," upon a claim therefor duly audited and approved by the Auditor of the District of Columbia, subject to like conditions and provisions as those imposed and required by the United States Code, with respect to the payment of amounts represented by checks of disbursing officers of the United States which have been covered back into the Treasury to the credit of outstanding liabilities. (Apr. 28, 1904, 33 Stat. 574, ch. 1827, § 2; 1973 Ed., § 47-125; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

§ 47-127. Payment of fees into Treasury.

Fees collected by the District of Columbia shall be paid for each fiscal year into the Treasury of the United States to the credit of the General Fund of the District of Columbia. (June 26, 1912, 37 Stat. 184, ch. 182, § 10; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; Apr. 24, 1926, 44 Stat. 322, ch. 176, § 1; June 28, 1944, 58 Stat. 533, ch. 300, § 18; 1973 Ed., § 47-126; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-128. Court fees and fines to be credited to District.

There shall be credited to the District of Columbia that proportion of the fees and fines collected by the United States District Court for the District of Columbia, including fees and fines collected by the offices of the Clerk of that Court, of the Register of Wills of the District of Columbia, and of the United States Marshal for the District of Columbia, as the amount paid by the District of Columbia toward salaries and expenses of such Court and of the offices of the United States Attorney for the District of Columbia and of the United States Marshal for the District of Columbia bears to the total amount of such salaries and expenses; and such proportion of the fees and fines, if any, collected by the United States Court of Appeals for the District of Columbia Circuit, including fees and fines, if any, collected by the office of the Clerk of that Court, as the amount paid by the District of Columbia toward the salaries and expenses of such Court bears to the total amount of such salaries and expenses. (July 26, 1939, 53 Stat. 1107, ch. 367, title III; June 25, 1948, 62 Stat. 909, ch. 646, § 1; Aug. 2, 1949, 63 Stat. 491, ch. 383, § 7; 1973 Ed., § 47-126a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to reimbursement of United States for certain judicial expenses, see §§ 47-205 and 47-206.

§ 47-129. Revenues credited to General Fund.

After June 28, 1944, any revenue now required by law to be credited to the District of Columbia and the United States in the proportion that each contributed to the activity or source from whence such revenue was derived shall be credited wholly to the General Fund of the District of Columbia. (June 28, 1944, 58 Stat. 533, ch. 300, § 18; 1973 Ed., § 47-130a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-130. Composition of General Fund; establishment of special funds; deposits in funds [Charter Provision].

The General Fund of the District shall be composed of those District revenues which on January 2, 1975 are paid into the Treasury of the United States and credited either to the General Fund of the District or its miscellaneous receipts, but shall not include any revenues which are applied by law to any special fund existing on December 24, 1973. The Council may from time to time establish such additional special funds as may be necessary for the efficient operation of the government of the District. All money received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor for deposit in the appropriate fund. (1973 Ed., § 47-130b; Dec. 24, 1973, 87 Stat. 803, Pub. L. 93-198, title IV, § 450.)

Charter provisions. — This section of the D.C. Code is § 450 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Definitions applicable. — The definitions in § 1-202 apply to this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-131. Establishment of General Fund and special accounts; audit of closed special funds.

(a) There is established for the District of Columbia the General Fund of the District of Columbia (hereinafter in this section referred to as the “General Fund”) which shall consist of the following revenues:

- (1) Taxes, fees, charges, and miscellaneous receipts;

(2) Federal payments authorized by §§ 43-1552 and 43-1612 and by § 47-3406;

(3) Loans advanced to the District of Columbia by the Secretary of the Treasury, and other loans for operating expenses of the District of Columbia government; and

(4) Any moneys for operating expense purposes not otherwise designated to be deposited in another fund of the District of Columbia government.

(b) The Council of the District of Columbia may, from time to time, establish accounts within the General Fund and may direct the Mayor of the District of Columbia to institute such accounting procedures as may be necessary to separately report the revenue and expenditures related to individual programs and activities as it may designate, except that such directives shall not be construed as limiting the authority to transfer funds between accounts established in the General Fund. Within 60 days of the effective date of the establishment of any such account by the Council of the District of Columbia, the Mayor shall submit for Council approval by resolution, a list of the specific taxes, fees, charges, other receipts and expenditures deemed to fully represent the revenues and expenditures associated with the activity or program of each account established.

(c) The Council hereby establishes in the General Fund special accounts for receipts and expenditures related to the following:

(1) The provision of water service, including the operation of the Washington Aqueduct;

(2) The provision of sewer service, including the District of Columbia's share of the cost of Potomac Interceptor; and

(3) [Repealed].

(d) Within 180 days of the effective date of this Act abolishing certain special funds, the Mayor shall conduct an audit of each fund as closed and shall submit such audit report to the Council. (1973 Ed., § 47-130c; Jan. 22, 1976, D.C. Law 1-42, § 9, 22 DCR 6318; Apr. 30, 1982, D.C. Law 4-103, § 3, 29 DCR 1395; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to various sources for deposits in General Fund, see §§ 24-535, 40-104, 40-809, 43-1532, 43-1533, 43-1604, 43-1610, and 47-2301.

As to availability of General Fund for various purposes, see §§ 43-1602, 43-1603, and 43-1613.

As to rate of motor fuel tax, see § 47-2301.

Section references. — This section is referred to in §§ 6-2905, 24-418a, 24-451, 43-1652, 47-2301, and 47-2324.

Legislative history of Law 1-42. — Law 1-42, the "Revenue Funds Availability Act of 1975," was introduced in Council and assigned Bill No. 1-161, which was referred to the Committee on the Budget. The Bill was adopted on first and second readings on July 29, 1975 and October 7, 1975, respectively. Signed by the Mayor on October 24, 1975, it was assigned Act No. 1-59 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-103. — Law 4-103, the "Stable and Reliable Source of Revenues for WMATA Act of 1982," was introduced in Council and assigned Bill No. 4-61, which was referred to the Committee on Finance and Revenue and the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on February 9, 1982 and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-164 and transmitted to both Houses of Congress for its review.

References in text. — "This Act," referred to in subsection (d) of this section, is D.C. Law 1-42, the Revenue Funds Availability Act of 1975, approved January 22, 1976 (22 DCR 6318), codified as §§ 24-535, 40-104, 40-703, 40-809, 43-1533, 43-1602 to 1604, 43-1610, 43-1613, 43-1622, 43-1623, 47-131, 47-2301, 47-2324, and 47-2509.

Purpose of D.C. Law 1-42. — See § 2 of the Act of January 22, 1976, D.C. Law 1-42.

References to funds abolished by D.C. Law 1-42. — See § 8 of the Act of January 22, 1976, D.C. Law 1-42.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-132. Payment into Treasury of moneys received from sales of animals and materials.

All moneys received from the sales of animals or materials of any sort, purchased under appropriations made for the District of Columbia since July 1, 1878, other than for the Water Department, shall be paid into the Treasury of the United States, to the credit of the General Fund of the District of Columbia. (Mar. 2, 1889, 25 Stat. 808, ch. 370, § 3; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; June 30, 1944, 58 Stat. 533, ch. 300, § 18; 1973 Ed., § 47-132; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-133. Investment of funds in federal securities.

On and after June 29, 1956, the Mayor of the District of Columbia is authorized in his discretion to invest and reinvest at any time in United States government securities, with the approval of the Secretary of the Treasury, any part of the general, special, or trust funds of the District of Columbia not needed to meet current expenses, to deposit the interest accruing from such investments to the credit of the fund from which the investment was made, and the Secretary of the Treasury is authorized to sell or exchange such securities for other government securities, and deposit the proceeds to the credit of the appropriate fund. (June 29, 1956, 70 Stat. 453, ch. 479, § 7; 1973 Ed., § 47-135; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to deposit and investment of public funds, see § 47-341 et seq.

§ 47-134. Establishment of working fund — Maintenance and repair of vehicles.

The Mayor of the District of Columbia is authorized to establish a permanent working fund, which shall be available without fiscal year limitation, for necessary expenses of maintenance and repair of vehicles of the government of the District of Columbia; and said fund shall be reimbursed, or credited in advance if required by the Director of the Department of Transportation, for the costs of all work performed thereunder. (July 1, 1954, 68 Stat. 396, ch. 449, § 18; 1973 Ed., § 47-136; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Department of Highways abolished. — The Department of Highways was replaced by Reorganization Order 58-1116, dated July 15, 1958, which Order established the Department of Highways and Traffic. The executive functions of the Board of Commissioners were

transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Plan No. 2 of 1975, dated July 24, 1975, combined the Department of Motor Vehicles and the Department of Highways and Traffic to form the

Department of Transportation. The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

Transfer of unexpended balance. — Sec-

tion 7(f) of the Act of June 14, 1980, D.C. Law 3-70, provided for the transfer to the Motor Vehicle Maintenance Fund of any unexpended balance in the Maintenance and Repair of Vehicles Fund.

§ 47-135. Same — Printing, duplicating, and photographing.

The Mayor of the District of Columbia is authorized to establish a working fund without fiscal year limitation for the purpose of printing, duplicating, and photographing; and the unexpended balances in the miscellaneous trust fund accounts "Operating Account, Printing" and "Operating Account, Blueprinting" shall be deposited to said working fund; and the fund shall be reimbursed for all services performed thereunder. (July 5, 1955, 69 Stat. 263, ch. 272, § 14; 1973 Ed., § 47-137; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Transfer of unexpended balances. — Section 7(g) of the Act of June 14, 1980, D.C. Law 3-70, provided for the transfer to the Department of General Services Internal Service

Fund, or successor fund established by the Mayor, of any unexpended balances in the working capital fund for printing, duplicating, and photographing.

§ 47-136. Restoration of lapsed appropriations.

The Secretary of the Treasury is authorized to restore from lapsed appropriations amounts certified by the Mayor of the District of Columbia, or his designated representatives, as being necessary for the payment of audited claims under such appropriations. (Aug. 6, 1958, 72 Stat. 512, Pub. L. 85-594, § 14; 1973 Ed., § 47-138; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-137. Capital outlay appropriations.

Amounts appropriated under "capital outlay," together with such amounts previously appropriated under "capital outlay," shall be available within the appropriations involved without regard to fiscal year project limitations. (July 23, 1959, 73 Stat. 235, Pub. L. 86-104, § 1; 1973 Ed., § 47-139; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-138. Use of appropriated funds to promote demonstrations to influence legislation or other governmental actions.

No funds appropriated for the government of the District of Columbia may be used to furnish materials or services to promote or further any demonstration in the District of Columbia undertaken for the purpose of influencing legislation or other governmental actions of the United States government or the government of the District of Columbia, except that nothing in this section shall preclude the government of the District of Columbia from taking such emergency action as the Mayor of the District of Columbia determines

necessary for the preservation of the health, safety, or welfare of any person within the District of Columbia. (Aug. 2, 1968, 82 Stat. 615, Pub. L. 90-450, title IV, § 402; 1973 Ed., § 47-145; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

No appropriations to be used for publicity, propaganda or lobbying. — Section 116 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided that no part of this appropriation shall be used for publicity

or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any state legislature.

§§ 47-139 to 47-142. Investment of public funds in financial institutions and companies making loans to or doing business with South Africa — Mayor's order; notice of required withdrawal or divestiture; time required for withdrawal or divestment; exception to prohibition.

Repealed. June 28, 1994, D.C. Law 10-134, § 5, 41 DCR 2567.

Temporary repeal of section. — Section 5 of D.C. Law 10-75 repealed §§ 47-139 to 47-142.

Section 8(b) of D.C. Law 10-75 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the South Africa Sanctions Repeal Act of 1993, whichever occurs first.

Legislative history of Law 10-134. — Law 10-134, the "South Africa Sanctions Repeal Act

of 1994," was introduced in Council and assigned Bill No. 10-427, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 28, 1994, it was assigned Act No. 10-234 and transmitted to both Houses of Congress for its review. D.C. Law 10-134 became effective on June 28, 1994.

CHAPTER 1A. TAX RETURN PREPARERS.

Sec.

47-161. Definitions.

47-162. Penalty imposed on a tax return preparer for failure to sign a return.

47-163. Understatement of taxpayer's liability by tax return preparer.

47-164. Penalty for aiding and abetting understatement of a taxpayer's tax liability.

Sec.

47-165. Frivolous tax return.

47-166. Statute of limitations on assessment of penalties and claims for refund.

47-167. Determination of penalty; notice to tax return preparer; protest of determination.

47-168. Claim for refund.

47-169. Right to judicial appeal.

47-170. Abatement of penalty.

§ 47-161. Definitions.

For the purposes of this chapter the term:

(1) "Tax return preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return of tax imposed by the Mayor or any claim for refund of tax imposed by the Mayor. The preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of the entire return or claim for refund. "Tax return preparer" shall not mean a person who only:

(A) Furnishes typing, reproducing, or other mechanical assistance;

(B) Prepares a return or claim for refund of the employer (or an officer or employee of the employer) by whom the person is regularly and continuously employed; or

(C) Prepares as a fiduciary a return or claim for refund for any person.

(2) "Understatement of liability" means any understatement of the net amount payable with respect to any tax imposed by the Mayor or any overstatement of the net amount creditable or refundable with respect to the tax. Except as provided in § 47-170, the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer. (Apr. 30, 1994, D.C. Law 10-115, § 101, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-115. — Law 10-115, the "Financial Administration Revision and Clarification Act of 1994," was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and

transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

Mayor authorized to issue rules. — Section 111 of D.C. Law 10-115 provided that, pursuant to subchapter I of Chapter 15 of Title 1, the Mayor shall issue rules to implement the provisions of this chapter.

§ 47-162. Penalty imposed on a tax return preparer for failure to sign a return.

Any person who is a tax return preparer with respect to any tax return or claim for refund shall sign the return or claim for refund as a tax return preparer. A tax return preparer who fails to sign a return or claim for refund shall pay a penalty of \$50 per unsigned return or claim for refund unless it is

shown that the failure is due to reasonable cause. (Apr. 30, 1994, D.C. Law 10-115, § 102, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-164.

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-163. Understatement of taxpayer's liability by tax return preparer.

(a) A tax return preparer shall pay a penalty of \$250 per return or claim for refund prepared by the tax preparer which understates a taxpayer's liability if:

(1) Any part of any understatement of liability with respect to any return or claim for refund was due to a position for which there was not a realistic possibility of being sustained on the position's merits;

(2) Any person who is a tax return preparer with respect to the return or claim for refund knew or reasonably should have known of the position; and

(3) The relevant facts affecting the tax treatment of the item were not adequately disclosed in the return or claim for refund or in a statement attached to the return or claim for refund (or in a federal return or a statement attached thereto, a copy of which was filed with the return or claim for refund, if applicable) or the position was frivolous.

(b) The Mayor shall not impose the penalty in subsection (a) of this section if it is shown that there is reasonable cause for the understatement and that the tax return preparer acted in good faith.

(c) A tax return preparer shall pay a penalty of \$1,000 per return or claim for refund prepared by the tax return preparer that understates a taxpayer's liability if any part of any understatement of liability with respect to any return or claim for refund was due to:

(1) A willful attempt in any manner to understate the liability for tax by a person who is a tax return preparer with respect to the return or claim for refund; or

(2) Any reckless or intentional disregard of rules or regulations by a tax return preparer.

(d) The amount of the penalty payable by any person by reason of subsection (c) of this section shall be reduced by the amount of the penalty paid by the person by reason of subsection (a) of this section. (Apr. 30, 1994, D.C. Law 10-115, § 103, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-164 and 47-170.

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-164. Penalty for aiding and abetting understatement of a taxpayer's tax liability.

(a) Except as provided by subsection (b) of this section, a person is subject to a penalty of \$1,000 if the person:

(1) Aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim for refund, or other document; the term “procures” includes ordering (or otherwise causing) a subordinate to perform an act and knowing of, and not attempting to prevent, participation in the act by any other person (whether or not the person is a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control;

(2) Knows or has reason to believe that the portion will be used in connection with any material matter arising under any tax imposed by the Mayor; and

(3) Knows that the portion would result in an understatement of the liability for tax of another person.

(b) If the return, affidavit, claim for refund, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) of this section shall be \$10,000.

(c) If any person is subject to a penalty under subsection (a) of this section with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), the person shall not be subject to a penalty under subsection (a) of this section with respect to any other document relating to the taxpayer for such taxable period (or event).

(d) Subsection (a) of this section shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim for refund, or other document.

(e) For purposes of subsection (a)(1) of this section, a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of the document by reason of the assistance.

(f) The penalty imposed by this section shall be in addition to any penalty assessed under § 47-162.

(g) No penalty on any person shall be assessed under § 47-163 with respect to a return for which a penalty is imposed on the person under this section. (Apr. 30, 1994, D.C. Law 10-115, § 104, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-170.

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-165. Frivolous tax return.

(a) An individual shall pay a penalty of \$500 if:

(1) The individual files what purports to be a tax return but that:

(A) Does not contain information on which the substantial correctness of the self-assessment may be judged; or

(B) Contains information that on its face indicated that the self-assessment is substantially incorrect; and

(2) The conduct referred to in paragraph (1) of this subsection is due to:

(A) A position which is frivolous; or

(B) A desire (which appears on the purported return) to delay or impede the administration of the District's tax laws.

(b) The penalty imposed by subsection (a) of this section shall be in addition to any other penalty provided by law. (Apr. 30, 1994, D.C. Law 10-115, § 105, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-166.

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-166. Statute of limitations on assessment of penalties and claims for refund.

(a) The amount of any penalty under § 47-162 or § 47-163(a) shall be assessed within 3 years after the return or claim for refund, with respect to which the penalty is assessed, is filed. In the case of any penalty under § 47-163(c), § 47-164, or § 47-165 the penalty may be assessed at any time.

(b) Any claim for refund for overpayment of a penalty assessed under this section shall be filed within 3 years from the time the penalty is paid. (Apr. 30, 1994, D.C. Law 10-115, § 106, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-167. Determination of penalty; notice to tax return preparer; protest of determination.

(a) Except as provided by subsection (c) of this section, prior to a final assessment of a penalty or penalties against a person under this chapter, the Mayor shall send the person a proposed assessment and provide the person, not less than 30 days after the proposed assessment is sent, with an opportunity to file a protest that explains why the penalty should not be assessed. If a protest is filed in a timely manner, the Mayor shall grant the person a hearing.

(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, or the Mayor determines after a hearing under subsection (a) of this section that the person is subject to a penalty or penalties under this chapter, the Mayor shall send the person a final assessment of the penalty or penalties.

(c) If the period of limitations is about to expire without adequate opportunity for assessment, the Mayor may issue a final assessment of a penalty or penalties against a person under this chapter without first issuing a proposed assessment.

(d) Within 30 days after the final assessment pursuant to subsection (b) or (c) of this section is sent to the person, the person shall pay the full amount of the penalty assessed. (Apr. 30, 1994, D.C. Law 10-115, § 107, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-168. Claim for refund.

A claim for refund of penalties paid under this chapter may be filed with the Mayor by the person against whom the penalty is assessed. Every claim for refund shall be in writing, under oath, on a form prescribed by the Mayor and shall state the specific grounds upon which the claim for refund is based. (Apr. 30, 1994, D.C. Law 10-115, § 108, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-169. Right to judicial appeal.

If the Mayor denies a person's claim for refund, the person may within 6 months from the date of the denial, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3306 through 47-3308. (Apr. 30, 1994, D.C. Law 10-115, § 109, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-115. — See note to § 47-161.

§ 47-170. Abatement of penalty.

If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty was assessed pursuant to § 47-163 or § 47-164, the assessment shall be abated, and if any portion of the penalty has been paid, the amount of the penalty paid shall be refunded without regard to any period of limitations. (Apr. 30, 1994, D.C. Law 10-115, § 110, 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-161.

Legislative history of Law 10-115. — See note to § 47-161.

CHAPTER 1B. CREDITING OF TAX REFUNDS AGAINST DELINQUENT TAXES.

Sec.

47-171. Definitions.

47-172. Crediting a tax refund.

47-173. Multiple party returns.

Sec.

47-174. Priority over intercepts.

47-175. Notice; protest.

47-176. Remedy not exclusive.

§ 47-171. Definitions.

For the purposes of this chapter the term:

(1) "Delinquent taxes" means any amount of taxes which are past due and owing to the District of Columbia, and the penalty and interest thereon.

(2) "Person" means an individual, firm, partnership, society, club, association, joint stock company, corporation, estate, receiver, trustee, fiduciary or other representative, whether or not appointed by the court, or any combination of individuals or persons acting as a unit.

(3) "Tax refund" means any overpayment of taxes, and any interest thereon, payable to a person or persons. "Tax refund" includes any overpayment of taxes and interest thereon payable to a person or persons as a result of:

(A) Filing a joint District income tax return;

(B) Filing separate income tax returns on a combined individual form prescribed by the Mayor; or

(C) Being 1 of several owners of real property for which an overpayment of taxes was made.

(4) "Taxes" means any amount of District of Columbia individual income taxes, corporate franchise taxes, unincorporated business franchise taxes, withholding taxes, inheritance and estate taxes, real property taxes, deed recordation taxes, real property transfer taxes, personal property taxes, sales taxes, payments in lieu of sales taxes, use taxes, motor fuel taxes, cigarette taxes, gross receipts taxes, hotel occupancy taxes, toll telecommunication service taxes, wholesaler's and manufacturer's alcoholic beverage taxes, public space rental fees, or professional license fees. (June 14, 1994, D.C. Law 10-128, § 201, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act

No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Mayor authorized to issue rules. — Section 208 of D.C. Law 10-128 provided that the Mayor may issue rules, pursuant to subchapter I of Chapter 15 of Title 1, necessary for the proper administration of this chapter.

§ 47-172. Crediting a tax refund.

(a) The Mayor may credit a person's tax refund against any delinquent taxes for which that person is liable, and the balance shall be refunded to that person, provided that the Mayor shall not credit a person's tax refund against

any delinquent taxes for which that person is liable if the matter regarding the person's delinquent taxes is pending in the following:

(1) A hearing before an administrative body of the District government based on a timely-filed protest; or

(2) A case filed in the Superior Court of the District of Columbia, the District of Columbia of Appeals, or any federal court.

(b) A person's tax refund shall be credited against the delinquent taxes owed by the person in the order that the delinquent taxes accrue.

(c) Delinquent taxes which are past due real property taxes, deed recordation taxes, or real property transfer taxes owing to the District of Columbia, and the penalty and interest thereon, shall be considered delinquent taxes owed by each owner of the real property based on each owner's ownership percentage in the real property. (June 14, 1994, D.C. Law 10-128, § 202, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-171.

§ 47-173. Multiple party returns.

(a) When a joint income tax return is filed, the Mayor shall separate the amount of tax refund due the spouse who owes delinquent taxes from the spouse who does not owe delinquent taxes based upon the proportion of gross earnings of each spouse. In applying the tax refund against delinquent taxes owed by a spouse, only the tax refund due the spouse who owes delinquent taxes may be credited against that spouse's delinquent taxes.

(b) When a separate income tax return on a combined individual form prescribed by the Mayor is filed, the tax refund due the spouse who owes delinquent taxes may be credited only against that spouse's delinquent taxes.

(c) When a real property tax refund is due to more than 1 owner of real property, the Mayor shall separate the amount of tax refund due the owners who are liable for delinquent taxes from the owners who are not liable for delinquent taxes based on each owner's ownership percentage in the real property. (June 14, 1994, D.C. Law 10-128, § 203, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-171.

§ 47-174. Priority over intercepts.

The Mayor's crediting of a person's tax refund against any delinquent taxes for which that person is liable shall have priority over any intercept of the person's tax refund requested by the Internal Revenue Service, or any intercept of the person's tax refund pursuant to § 47-1812.11. (June 14, 1994, D.C. Law 10-128, § 204, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-171.

§ 47-175. Notice; protest.

(a) The Mayor shall provide written notice to a person prior to crediting the person's tax refund against delinquent taxes owed by that person.

(b) The person shall have 30 days from the day the notice is sent to file a protest with the Mayor. If no protest is filed within the 30-day period, the crediting of the person's tax refund against delinquent taxes owed by the person shall become final. Except as provided by subsection (c) of this section, if a person files a protest within the 30-day period, an opportunity for a hearing shall be granted by the Mayor. The Mayor shall promptly notify the person of any determination as a result of the protest.

(c) The Mayor may refuse to grant a hearing after a timely-filed protest if the protest solely concerns an issue other than the identity of the person liable for delinquent taxes, whether delinquent taxes exist, the division of a joint tax refund, or whether a clerical error occurred which affected the amount of the delinquent taxes or the amount of the tax refund.

(d) Any person aggrieved by a final determination by the Mayor in accordance with this section may, within 6 months from the date of such determination, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308. (June 14, 1994, D.C. Law 10-128, § 205, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-171.

§ 47-176. Remedy not exclusive.

The collection remedy under this chapter is in addition to, and not in lieu of, any other remedy available by law. (June 14, 1994, D.C. Law 10-128, § 206, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-171.

CHAPTER 2. BUDGET ESTIMATES.

Sec.	Sec.
47-201. Salaries of Courthouse protection force and Superintendent of Washington Asylum and Jail; payment; submission of estimates.	47-208. Same — Employees and supplies for maintenance of sewers.
47-202. Expenditures for school buildings and grounds — Submission of estimates.	47-209. Same — Employees, supplies and expenses for highway bridge and approaches.
47-203. Same — Preparation of estimates.	47-210. Same — Certain expenses incurred in claims against District.
47-204. [Repealed].	47-211. Same — Provision for real estate assessment.
47-205. Reimbursement of United States for space costs of United States Attorney and United States Marshal.	47-212. Same — Expenses of Water Department.
47-206. Reimbursement of United States for expenses of United States Court of Appeals for the District of Columbia Circuit.	47-213. Preparation and submission of expense estimates for government of District.
47-207. Items included in annual estimates — Assignment of certain market employees.	47-214. Schedule of funds available from federal and private grants.
	47-215. Publication of District expense estimates.

§ 47-201. Salaries of Courthouse protection force and Superintendent of Washington Asylum and Jail; payment; submission of estimates.

The salaries of the force necessary for the care and protection of the Courthouse in the District of Columbia and of the salary of the Superintendent of the Washington Asylum and Jail shall be paid out of the revenues of the District of Columbia and the Treasury of the United States in the manner prescribed by the District of Columbia appropriation acts for the respective years for which such sums are provided, and estimates for such expenses shall each year hereafter be submitted in the annual estimates for the expenses of the government of the District of Columbia. (July 31, 1894, 28 Stat. 202, ch. 174; Mar. 2, 1911, 36 Stat. 1003, ch. 192; June 29, 1922, 42 Stat. 668, ch. 249; June 25, 1938, 52 Stat. 1125, ch. 681, § 1; 1973 Ed., § 47-201; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-202. Expenditures for school buildings and grounds — Submission of estimates.

A detailed statement of the expenditure of the appropriation made for repairs and improvements to school buildings and grounds and for repairing and renewing heating, plumbing, and ventilating apparatus, and installation of sanitary drinking fountains in buildings not supplied with same, and the taking down, transferring, and the reerection of portable schools shall be submitted with the annual estimates. (Mar. 3, 1915, 38 Stat. 910, ch. 80; 1973 Ed., § 47-202; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-203. Same — Preparation of estimates.

Estimates of expenditures for buildings and grounds for the public schools of the District of Columbia, shall hereafter be prepared in accordance with the provisions of the Act of Congress approved February 26, 1925. (Feb. 26, 1925, 43 Stat. 994, ch. 342, § 9; 1973 Ed., § 47-203; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-204. Reimbursement of United States for expenses of United States District Court for the District of Columbia.

Repealed. Sept. 13, 1982, 96 Stat. 877, Pub. L. 97-258, § 5(b).

§ 47-205. Reimbursement of United States for space costs of United States Attorney and United States Marshal.

Beginning on the effective date of this title, the Executive Officer of the District of Columbia Courts shall reimburse to the United States from any funds in the Treasury to the credit of the District of Columbia courts the amount determined by the Administrator of General Services to be necessary to cover 75% of the costs of operation, maintenance, and repair of space used by the United States Attorney and the United States Marshal for the District of Columbia. (July 29, 1970, 84 Stat. 591, Pub. L. 91-358, title I, § 173(a)(2); 1973 Ed., § 47-204a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “This title,” referred to in this section, is title I of 84 Stat. 475, Pub. L. 91-358, approved July 29, 1970, which is codified throughout the Code.

§ 47-206. Reimbursement of United States for expenses of United States Court of Appeals for the District of Columbia Circuit.

(a) Until the day before the effective date of the District of Columbia Court Reorganization Act of 1970, the Commissioner of the District of Columbia shall reimburse the United States for 30% of the expenditures made on or before that day for the expenses of the United States Court of Appeals for the District of Columbia Circuit. During the 30-month period beginning on such effective date, the Executive Officer of the District of Columbia Courts shall reimburse the United States for expenditures made during that period for such expenses at the following rates of reimbursement:

- (1) Twenty per centum for the first 18 months of such period; and
- (2) Ten per centum for the remainder of such period.

(b) Notwithstanding any other provision of law, no reimbursement for such expenses shall be required after the expiration of the 30-month period beginning on such effective date. (July 29, 1970, 84 Stat. 592, Pub. L. 91-358,

title I, § 173(d); 1973 Ed., § 47-204b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “The effective date of the District of Columbia Court Reorganization Act of 1970,” referred to in the first sentence of subsection (a) of this section, means, as set

forth in § 199(c) of the Act, the first day of the seventh calendar month which began after the enactment of the Act (February 1, 1971).

§ 47-207. Items included in annual estimates — Assignment of certain market employees.

The Mayor of the District of Columbia each year in the annual estimates shall report to Congress the assignment of the market masters, assistant market masters, watchmen, and laborers to the various markets and offices. (July 11, 1919, 41 Stat. 70, ch. 7, § 1; 1973 Ed., § 47-205; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-208. Same — Employees and supplies for maintenance of sewers.

Estimates in detail shall be submitted annually for the employment of mechanics, laborers, and watchmen, and the purchase of coal, oils, waste, and other supplies for the maintenance of sewers. (June 27, 1906, 34 Stat. 494, ch. 3553; 1973 Ed., § 47-206; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-209. Same — Employees, supplies and expenses for highway bridge and approaches.

Estimates in detail shall be submitted annually for salaries of employees, lighting, power, and miscellaneous supplies and expenses of every kind necessarily incident to the operation and maintenance of the highway bridge and approaches. (June 27, 1906, 34 Stat. 492, ch. 3553; 1973 Ed., § 47-207; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to jurisdiction and control over public roads and bridges, see § 7-102.

§ 47-210. Same — Certain expenses incurred in claims against District.

The estimates for expenses incurred on account of the District of Columbia in the examination of witnesses and procuring of evidence in the matter of claims against the District of Columbia pending in any department shall be submitted in the annual estimates for the District of Columbia. (Aug. 4, 1886, 24 Stat. 252, ch. 902, § 1; 1973 Ed., § 47-208; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-211. Same — Provision for real estate assessment.

The Mayor of said District shall in his annual estimates include all necessary provision to carry out the provisions of law relative to the assessment of real estate, to be immediately available. (Aug. 14, 1894, 28 Stat. 285, ch. 287, § 14; 1973 Ed., § 47-209; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-828.

§ 47-212. Same — Expenses of Water Department.

It shall be the duty of the Mayor to include in the annual estimates of the District of Columbia estimates of the expenses of the Water Department. (Mar. 3, 1881, 21 Stat. 466, ch. 134, § 1; 1973 Ed., § 47-210; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1806.6.

Cross references. — As to water supply, see § 43-1501 et seq.

§ 47-213. Preparation and submission of expense estimates for government of District.

The estimates for expenses of the government of the District of Columbia shall be prepared and submitted each year according to the order and arrangement of the appropriation act for the year preceding, and any change in such order and arrangement and transfers of salaries from 1 office or department to another desired by the Mayor may be submitted by note in the estimates. (July 1, 1902, 32 Stat. 616, ch. 1352, § 4; 1973 Ed., § 47-211; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-214. Schedule of funds available from federal and private grants.

Along with, and in addition to, all other financial and budgetary information and data which the Mayor of the District of Columbia is required annually to submit to the Office of Management and Budget by 31 U.S.C. § 1108(b)(1), the Mayor shall prepare and submit to that Office a schedule showing an estimate of all funds which will be available to any agency, department, or instrumentality of the District of Columbia government, during the fiscal year for which such financial and budgetary information and data are submitted, for grants from any federal agency, department, or instrumentality, or from any private source. Such schedule shall include such additional information as the Office of Management and Budget deems necessary and appropriate to fully indicate the purposes for which such grants will be made, the scope of the programs funded by such grants, and the relationship between the grant funded programs and the programs of such agency, department, or instrumentality funded by money appropriated directly to the District of Columbia. Such schedule, and such additional information as the Office of Management and

Budget may include, shall be transmitted to the Congress along with the annual budget request from the District of Columbia government. (Dec. 15, 1971, 85 Stat. 656, Pub. L. 92-196, title VII, § 703; 1973 Ed., § 47-211a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-215. Publication of District expense estimates.

The annual estimates for expenses of the District of Columbia shall not be published in advance of their submission to Congress at the beginning of each regular session thereof. (Mar. 3, 1909, 35 Stat. 728, ch. 250, § 7; 1973 Ed., § 47-212; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

CHAPTER 2A. PERFORMANCE AND FINANCIAL ACCOUNTABILITY.

Sec.

47-231. Performance and financial accountability.

47-232. Performance accountability report.

47-233. Financial accountability plan and report.

Sec.

47-234. Quarterly financial reports.

47-235. Submission of Reports to District of Columbia Financial Responsibility and Management Assistance Authority.

§ 47-231. Performance and financial accountability.

(a) *Submission of annual plan.* — Not later than March 1 of each year (beginning with 1995), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability plan for all departments, agencies, and programs of the government of the District of Columbia for the subsequent fiscal year.

(b) *Contents of plan.* — The performance accountability plan for a fiscal year shall contain the following:

(1) A statement of measurable, objective performance goals established for all significant activities of the government of the District of Columbia during the fiscal year (including activities funded in whole or in part by the District but performed in whole or in part by some other public or private entity) that describe an acceptable level of performance by the government and a superior level of performance by the government;

(2) A description of the measures of performance to be used in determining whether the government has met the goals established under paragraph (1) of this subsection with respect to an activity for a fiscal year. Such measures shall analyze the quantity and quality of the activities involved, and shall include measures of program outcomes and results; and

(3) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior.

(c) *Description of activities subject to court order.* — In addition to the material included in the performance accountability plan for a fiscal year under subsection (b) of this section, the plan shall include a description of the activities of the government of the District of Columbia that are subject to a court order during the fiscal year and the requirements placed on such activities by the court order. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 456(a), as added Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 3(a)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-232.

§ 47-232. Performance accountability report.

(a) *Submission of report.* — Not later than March 1 of each year (beginning with 1997), the Mayor shall develop and submit to the Committee on the

District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability report on activities of the government of the District of Columbia during the fiscal year ending on the previous September 30.

(b) *Contents of report.* — The performance accountability report for a fiscal year shall contain the following:

(1) For each goal of the performance accountability plan submitted under § 47-231 for the year, a statement of the actual level of performance achieved compared to the stated goal for an acceptable level of performance and the goal for a superior level of performance;

(2) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior; and

(3) A statement of the status of any court orders applicable to the government of the District of Columbia during the year and the steps taken by the government to comply with such orders.

(c) *Evaluation of report.* — The Comptroller General, in consultation with the Director of the Office of Management and Budget, shall review and evaluate each performance accountability report submitted under this subsection and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 456(b), as added Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 3(a)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-233. Financial accountability plan and report.

(a) *Development and submission.* — Not later than March 1 of each year (beginning with 1995), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a 5-year financial plan for the government of the District of Columbia that contains a description of the steps the government will take to eliminate any differences between expenditures from, and revenues attributable to, each fund of the District of Columbia during the first 5 fiscal years beginning after the submission of the plan.

(b) *Report on compliance.* —

(1) *Submission of report.* — Not later than March 1 of every year (beginning with 1997), the Mayor shall submit a report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, the Comptroller General, and the

Director of the Congressional Budget Office on the extent to which the government of the District of Columbia was in compliance during the preceding fiscal year with the applicable requirements of the financial accountability plan submitted for such fiscal year under this subsection.

(2) *Evaluation of report.* — The Comptroller General, in consultation with the Director of the Congressional Budget Office, shall review and evaluate the financial accountability compliance report submitted under paragraph (1) of this subsection and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 456(c), as added Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 3(a)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-234. Quarterly financial reports.

(a) *Submission of quarterly financial reports.* — Not later than fifteen days after the end of every calendar quarter (beginning with a report for the quarter beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate, a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

(b) *Contents of report.* — Each quarterly financial report submitted under subsection (a) of this section shall include the following information:

(1) A comparison of actual to forecasted cash receipts and disbursements for each month of the quarter, as presented in the District's fiscal year consolidated cash forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds;

(2) A projection of the remaining months cash forecast for that fiscal year;

(3) Explanations of (i) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (ii) any changes in the remaining months forecast as compared to the original forecast for such months of that fiscal year;

(4) The effect of such changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year;

(5) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas;

(6) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements; and

(7) For each department or agency, the actual number of full-time equivalent positions, the actual number of full-time employees, the actual

number of part-time employees, and the actual number of temporary employees, together with the source of funding for each such category of positions and employees. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 456(d), as added Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 3(a)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-235. Submission of Reports to District of Columbia Financial Responsibility and Management Assistance Authority.

In the case of any report submitted by the Mayor under this section for a fiscal year (or any quarter of a fiscal year) which is a control year under the District of Columbia Financial Responsibility and Management Assistance Act of 1995, the Mayor shall submit the report to the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a) in addition to any other individual to whom the Mayor is required to submit the report under this section. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 456(e), as added Apr. 17, 1995, 109 Stat. 140, Pub. L. 104-8, § 224(b)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — The District of Columbia Financial Responsibility and Management Assistance Act of 1995, referred to in this

section, is Pub. Law 104-8, 109 Stat. 97, codified primarily as subchapters 1A and 7 of Chapter 3 of this title.

CHAPTER 3. BUDGET AND FINANCIAL MANAGEMENT; BORROWING; DEPOSIT OF FUNDS.

Subchapter I. Budget and Financial Management.

Sec.

- 47-301. Submission of annual budget and supplemental or deficiency recommendations [Charter Provision].
- 47-302. Multiyear plan [Charter Provision].
- 47-303. Multiyear capital improvements plan [Charter Provision].
- 47-304. Adoption of budget by Council; enactment of appropriations by Congress [Charter Provision].
- 47-304.1. Reductions in budgets of independent agencies. [Charter Provision].
- 47-305. Consistency of budget, accounting, and personnel systems [Charter Provision].
- 47-306. Submission and approval of gross planning budget.
- 47-307. Submission of control budget.
- 47-308. Establishment of budget structure.
- 47-309. Borrowing of funds by Mayor.
- 47-310. Financial duties of Mayor [Charter Provision].
- 47-310.1. Financial Reports by Mayor.
- 47-311. Estimate of expenditures by Mayor.
- 47-312. Accounting supervision and control [Charter Provision].
- 47-313. Existing provisions and procedure and practice preserved; borrowing and spending limitations [Home Rule Act Provision].
- 47-314 to 47-317. [Repealed].

Subchapter I-A. Chief Financial Officer of the District of Columbia.

- 47-317.1. Establishment of office [Charter Provision].
- 47-317.2. Chief Financial Officer — Appointment [Charter Provision].
- 47-317.3. Same — Functions during control year [Charter Provision].
- 47-317.3a. Same — Powers during control periods.
- 47-317.4. Same — Functions during all years [Charter Provision].
- 47-317.5. Functions of Treasurer [Charter Provision].
- 47-317.6. Definitions [Charter Provision].

Subchapter I-B. Financial Accountability and Management.

- 47-318. Definitions.
- 47-318.1. Mayoral budget submissions required; accounting of expenditures.

Sec.

- 47-318.2. Same — Budget request and multiyear plan.
- 47-318.3. Same — Gap-closing actions.
- 47-318.4. Same — Deadline for gap-closing submission.
- 47-318.5. Same — Cash flow statements.

Subchapter I-C. Monitoring Committee.

- 47-319.1. Establishment of the Initiative Implementation Monitoring Committee; duties.
- 47-319.2. Composition.
- 47-319.3. Compensation.
- 47-319.4. Reports.

Subchapter II. Borrowing.

- 47-321. General obligation bonds — Authority to issue; right to redeem [Charter Provision].
- 47-322. Same — Authorization act — Contents [Charter Provision].
- 47-323. Same — Same — Publication; notice [Charter Provision].
- 47-324. Same — Presumptions; time period to contest [Charter Provision].
- 47-325. Same — Issuance [Charter Provision].
- 47-326. Same — Public or private sale [Charter Provision].
- 47-326.1. Same — Creation of security interests in District revenues.
- 47-327. General obligation notes — Issuance; limitation on amount; renewal; due date [Charter Provision].
- 47-328. Same — Revenue anticipation notes [Charter Provision].
- 47-329. Same — Redemption [Charter Provision].
- 47-330. Same — Sale [Charter Provision].
- 47-331. Payment of bonds and notes; special tax [Charter Provision].
- 47-331.1. Full faith and credit of District pledged.
- 47-331.2. Payment of bonds and notes.
- 47-331.3. Full faith and credit of United States not pledged.
- 47-332. Tax exemption [Charter Provision].
- 47-333. Legal investment in District obligations [Charter Provision].
- 47-334. Revenue bonds and other obligations [Charter Provision].
- 47-335. Permissible security.

Subchapter II-A. Capital Review and Debt Affordability.

- 47-336. Definitions.
- 47-337. Capital Review and Debt Affordability Committee.

FINANCIAL MANAGEMENT; BORROWING; DEPOSITS

Sec.

- 47-338. Duties of the Committee.
- 47-339. Preliminary capital budget and multiyear capital improvements plan.
- 47-340. Notation of debt service requirement on real property tax bills.

Subchapter II-B. Industrial Revenue Bond Forward Commitment Program.

- 47-340.1. Revenue bonds and other obligations.
- 47-340.2. Bond authorization.
- 47-340.3. Council review for each individual project.
- 47-340.4. Details of each series of bonds.
- 47-340.5. Sale of the bonds.
- 47-340.6. Payment and security.
- 47-340.7. Financing and closing documents.
- 47-340.8. Authorized delegation of authority.
- 47-340.9. Limited liability.
- 47-340.10. District officials.
- 47-340.11. Maintenance of documents.
- 47-340.12. Information reporting.
- 47-340.13. Disclaimer.
- 47-340.14. Expiration.
- 47-340.15. Severability.
- 47-340.16. Conflict of laws.

Subchapter III. Deposit of Public Funds.

- 47-341. Definitions.
- 47-342. Mayor to invest or deposit certain funds.
- 47-343. Selection of depositories and investments.
- 47-344. Ranking of depositories; qualifying loans; information required to bid.
- 47-345. Limitation on amount.
- 47-345.1. Cashing government checks of District residents required.
- 47-346. Required collateral and financial information.
- 47-347. Public disclosure of certain information; required reports by depositories and Mayor.
- 47-348. Termination of depositories or refusal of contracts; immediate withdrawal.
- 47-349. Powers of Mayor and District of Columbia Auditor; accountability of Auditor.
- 47-350. Authorized staff for District of Columbia Auditor and Committee on Employment and Economic Development.

Subchapter IV. Reprogramming Policy.

- 47-361. Definitions.
- 47-362. Policies enumerated.
- 47-363. Council approval for reprogramming requests for appropriated or estimated non-appropriated authori-

Sec.

- ties; procedure; monthly reprogramming summary; exclusions.
- 47-364. [Repealed].

Subchapter V. Fund Accounting.

- 47-371. Findings.
- 47-372. Definitions.
- 47-373. Organization of fund structure.
- 47-374. Accepted accounting principles to be followed.
- 47-375. Duties of Mayor.
- 47-376. Construction of subchapter.
- 47-377. Financial obligations of District.

Subchapter VI. Funds Control.

- 47-381. Findings.
- 47-382. Definitions.
- 47-383. Grant application procedure.
- 47-384. Notice of application for grant funds.
- 47-385. Procedure for Council consent to certain grant applications and state plans.

Subchapter VII. Financial Responsibility and Management Assistance.

Subpart A. Establishment and Organization of Authority.

- 47-391.1. District of Columbia Financial Responsibility and Management Assistance Authority.
- 47-391.2. Executive Director and staff of Authority.
- 47-391.3. Powers of Authority.
- 47-391.4. Exemption from liability for claims for authority employees.
- 47-391.5. Treatment of actions arising from act.
- 47-391.6. Funding for operation of Authority.
- 47-391.7. Suspension of activities.
- 47-391.8. Application of laws of District of Columbia to authority.

Subpart B. Establishment and Enforcement of Financial Plan and Budget for District Government.

- 47-392.1. Development of financial plan and budget for District of Columbia.
- 47-392.2. Process for submission and approval of financial plan and annual District budget.
- 47-392.3. Review of activities of district government to ensure compliance with approved financial plan and budget.
- 47-392.4. Restrictions on borrowing by District during control year.
- 47-392.5. Deposit of annual federal payment with Authority.
- 47-392.6. Effect of finding of non-compliance with financial plan and budget.

Sec.

- 47-392.7. Recommendations on financial stability and management responsibility.
- 47-392.8. Special rules for Fiscal Year 1996.
- 47-392.9. Control periods described.
- 47-392.10. [Reserved].

Subpart C. Issuance of Bonds.

- 47-392.11. Authority to issue bonds.
- 47-392.12. Pledge of security interest in revenues of District government.
- 47-392.13. Establishment of debt service reserve fund.
- 47-392.14. Other requirements for issuance of bonds.
- 47-392.15. No full faith and credit of the United States.
- 47-392.16 to 47-392.20. [Reserved].

Subpart D. Other Duties of Authority.

- 47-392.21. Duties of Authority during year other than control year.
- 47-392.22. General assistance in achieving financial stability and management efficiency.
- 47-392.23. Obtaining reports.
- 47-392.24. Reports and comments.

Sec.

- 47-392.25. Disposition of certain school property.
- 47-392.26. Prohibiting funding for terminated employees or contractors.

Subpart E. Definitions.

47-393. Definitions.

Subchapter VIII. District of Columbia Convention Center and Sports Arena Authorization.

- 47-396.1. Expenditure of revenues for Convention Center activities.
- 47-398.1. Permitting designated authority to borrow funds for preconstruction activities relating to gallery place sports arena.
- 47-398.2. Permitting certain District revenues to be pledged as security for borrowing.
- 47-398.3. No appropriation necessary for arena preconstruction activities.
- 47-398.4. Arena preconstruction activities described.
- 47-398.5. Limitation on amount of borrowing financed by arena tax.

Subchapter I. Budget and Financial Management.

§ 47-301. Submission of annual budget and supplemental or deficiency recommendations [Charter Provision].

(a) At such time as the Council may direct, the Mayor shall prepare and submit to the Council each year, and make available to the public, an annual budget for the District of Columbia government which shall include:

(1) The budget for the forthcoming fiscal year in such detail as the Mayor determines necessary to reflect the actual financial condition of the District government for such fiscal year, and specify the agencies and purposes for which funds are being requested; and which shall be prepared on the assumption that proposed expenditures resulting from financial transactions undertaken on either an obligation or cash outlay basis, for such fiscal year shall not exceed estimated resources from existing sources and proposed resources;

(2) An annual budget message which shall include supporting financial and statistical information on the budget for the forthcoming fiscal year and information on the approved budgets and expenditures for the immediately preceding 3 fiscal years;

(3) A multiyear plan for all agencies of the District government as required under § 47-302;

(4) A multiyear capital improvements plan for all agencies of the District government as required under § 47-303;

(5) A program performance report comparing actual performance of as many programs as is practicable for the last completed fiscal year against proposed goals for such programs for such year, and, in addition, presenting as many qualitative or quantitative measures of program effectiveness as possible (including results of statistical sampling or other special analyses), and indicating the status of efforts to comply with the reports of the District of Columbia Auditor and the Comptroller General of the United States;

(6) An issue analysis statement consisting of a reasonable number of issues, identified by the Council in its action on the budget in the preceding fiscal year, having significant revenue or budgetary implications, and other similar issues selected by the Mayor, which shall consider the cost and benefits of alternatives and the rationale behind action recommended or adopted; and

(7) A summary of the budget for the forthcoming fiscal year designed for distribution to the general public.

(b) The budget prepared and submitted by the Mayor shall include, but not be limited to, recommended expenditures at a reasonable level for the forthcoming fiscal year for the Council, the District of Columbia Auditor, the District of Columbia Board of Elections and Ethics, the District of Columbia Judicial Nomination Commission, the Zoning Commission of the District of Columbia, the Public Service Commission, the Armory Board, the Commission on Judicial Disabilities and Tenure, and the District of Columbia Water and Sewer Authority.

(c) The Mayor from time to time may prepare and submit to the Council such proposed supplemental or deficiency budget recommendations as in his judgment are necessary on account of laws enacted after transmission of the budget or are otherwise in the public interest. The Mayor shall submit with such proposals a statement of justifications, including reasons for their omission from the annual budget. Whenever such proposed supplemental or deficiency budget recommendations are in an amount which would result in expenditures in excess of estimated resources, the Mayor shall make such recommendations as are necessary to increase resources to meet such increased expenditures.

(d) The Mayor shall prepare and submit to the Council a proposed supplemental or deficiency budget recommendation under subsection (c) of this section if the Council by resolution requests the Mayor to submit such a recommendation. (1973 Ed., § 47-221; Dec. 24, 1973, 87 Stat. 798, Pub. L. 93-198, title IV, § 442; Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(c); Aug. 6, 1996, 110 Stat. 1698, Pub. L. 104-184, § 4(c).)

Charter provisions. — This section of the D.C. Code is § 442 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Cross references. — As to University of the District of Columbia budget, see § 31-1516.

As to duties and powers of D.C. General Hospital Commission, see § 32-220.

As to budgetary duties of Mayor and Council in regard to annual federal payment, see § 47-3405.

Section references. — This section is referred to in §§ 1-711, 1-722, 2-4013, 40-851, 47-375, 47-392.2, 47-852, and 47-3211.

Effect of amendments. — Section 301(c) of Pub. L. 104-8, 109 Stat. 141, added (d).

Public Law 104-184, in (b), substituted "the Commission" for "and the Commission," and added "and the District of Columbia Water and Sewer Authority" to the end.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that "§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

Deadline for submission of revised revenue estimate. — Section 124 of Pub. L. 102-382, 106 Stat. 1433, the District of Columbia Appropriations Act, 1993, provided that no later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report.

Submission date for budget request for fiscal year 1992. — Pursuant to Resolution 8-312, the "Submission Date for the Fiscal Year 1992 Budget Approval Resolution of 1990," effective December 21, 1990, the Council established the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992, and identified information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992.

Submission Date for the Fiscal Year 1993 Budget Approval Resolution of 1991. — Pursuant to Resolution 9-151, effective December 27, 1991, the Council established the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1993, and to identify information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1993.

Submission Date for the Fiscal Year 1995 Budget Approval Resolution of 1993. — Pursuant to Resolution 10-206, effective De-

cember 24, 1993, the Council established the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1995, and to identify information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1995.

Fiscal Year 1996 Budget Submission Date Extension Emergency Resolution of 1995. — Pursuant to Resolution 11-16, effective February 7, 1995, the Council extended, on an emergency basis, the date of submission by the Mayor of the Fiscal Year 1996 budget to the Council.

Amendment of Mayor's Order 83-19 January 3, 1983, Establishment of Office of Financial Management. — See Mayor's Order 88-13, January 22, 1988.

Agency Budget and Resource Utilization Advisory Committees established. — See Mayor's Order 88-239, October 26, 1988.

Establishment of Mayor's Advisory Committee on Resources and Budget. — See Mayor's Order 89-207, September 12, 1989.

Establishment of District of Columbia Commission on Budget and Financial Priorities. — See Mayor's Order 89-224, October 5, 1989.

Amendment of Mayor's Order 89-224: Establishment — D.C. Commission on Budget and Financial Priorities. — See Mayor's Order 90-198, December 13, 1990.

Definitions applicable. — The definitions in § 1-202 apply to this subchapter.

Council could seek to halt ongoing project during current fiscal year: (1) By repealing the substantive authorizing legislation, followed by a supplemental budget request act seeking rescission or transfer of appropriations; or (2) initially adopting a supplemental budget request act seeking rescission or transfer of appropriated funds. *Convention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 441 A.2d 889 (1981).

Mayor required to reduce funding below level of appropriations. — Under subsection (a)(1) of this section, and §§ 47-310(a)(9) and 47-313(d), the Mayor not only has the authority to reduce funding below the level of appropriations in order to balance the budget, but is required to do so. *Hazel v. Barry*, App. D.C., 580 A.2d 110 (1990).

Initiatives cannot intrude upon Council's authority to allocate revenues. — An initiative cannot amend the allocation in a Budget Request Act to require that additional revenues or all revenues from a particular source be devoted to a specific purpose. Matters relating to the local budget process which Congress delegated to the District government in

the Self-Government Act remain with the elected officials of the District government, and are not subject to control by the electorate through an initiative or the right of referendum. *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

The interpretation most consistent with the District government's unique fiscal status equates "laws appropriating funds" with "acts allocating funds" in recognition of the nature of the Council's role in the budget process, and its financial responsibilities under the charter, balancing the right of initiative with the charter's provisions for sound financial management by the District government's elected officials. *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

Local revenues not to be used for federal obligations. — Revenues derived from a tax enacted by the Mayor and D.C. Council pursuant to the authority delegated under the Self-Government Act are not generally available for

defraying the expenses and obligations of the United States government in connection with its national responsibilities and activities, as they are for use by the government of the District of Columbia in support of the activities of the local government. *Sprint Communications Co. v. Kelly*, App. D.C., 642 A.2d 106, cert. denied, — U.S. —, 115 S. Ct. 294, 130 L. Ed. 2d 208 (1994).

Mayor cannot unilaterally reduce the Board of Education's budget. — The Mayor cannot unilaterally reduce the Board of Education's budget under the Self-Government Act, specifically this section and §§ 47-310, 47-312(2), 47-313(c) and (d), the federal Anti-Deficiency Act or the D.C. Appropriations Act. *Barry v. Bush*, App. D.C., 581 A.2d 308 (1990).

Cited in *Spivey v. Barry*, 665 F.2d 1222 (D.C. Cir. 1981); *District of Columbia v. American Fed'n of Gov't Employees*, App. D.C., 619 A.2d 77 (1993), cert. denied, 510 U.S. 933, 114 S. Ct. 347, 126 L. Ed. 2d 312 (1993).

§ 47-302. Multiyear plan [Charter Provision].

The Mayor shall prepare and include in the annual budget a multiyear plan for all agencies included in the District budget, for all sources of funding, and for such program categories as the Mayor identifies. Such plan shall be based on the actual experience of the immediately preceding 3 fiscal years, on the approved current fiscal year budget, and on estimates for at least the 4 succeeding fiscal years. The plan shall include, but not be limited to, provisions identifying:

- (1) Future cost implications of maintaining programs at currently authorized levels, including anticipated changes in wage, salary, and benefit levels;
- (2) Future cost implications of all capital projects for which funds have already been authorized, including identification of the amount of already appropriated but unexpended capital project funds;
- (3) Future cost implications of new, improved, or expanded programs and capital project commitments proposed for each of the succeeding 4 fiscal years;
- (4) The effects of current and proposed capital projects on future operating budget requirements;
- (5) Revenues and funds likely to be available from existing revenue sources at current rates or levels;
- (6) The specific revenue and tax measures recommended for the forthcoming fiscal year and for the next following fiscal year necessary to balance revenues and expenditures;
- (7) The actuarial status and anticipated costs and revenues of retirement systems covering District employees; and
- (8) Total debt service payments in each fiscal year in which debt service payments must be made for all bonds which have been or will be issued, and all loans from the United States Treasury which have been or will be received, to finance the total cost on a full funding basis of all projects listed in the

capital improvements plan prepared under § 47-303; and for each such fiscal year, the percentage relationship of the total debt service payments (with payments for issued and proposed bonds and loans from the United States Treasury, received or proposed, separately identified) to the bonding limitation for the current and forthcoming fiscal year as specified in § 47-313 (b). (1973 Ed., § 47-222; Dec. 24, 1973, 87 Stat. 799, Pub. L. 93-198, title IV, § 443.)

Charter provisions. — This section of the D.C. Code is § 443 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 47-301, 47-318, and 47-392.8.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Deadline for submission of revised revenue estimate. — Section 124 of Pub. L. 102-382, 106 Stat. 1433, the District of Columbia Appropriations Act, 1993, provided that no later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of

Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report.

Submission date for budget request for fiscal year 1992. — Pursuant to Resolution 8-312, the “Submission Date for the Fiscal Year 1992 Budget Approval Resolution of 1990,” effective December 21, 1990, the Council established the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992, and identified information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992.

Establishment of Mayor’s Advisory Committee on Resources and Budget. — See Mayor’s Order 89-207, September 12, 1989.

Establishment of District of Columbia Commission on Budget and Financial Priorities. — See Mayor’s Order 89-224, October 5, 1989.

Amendment of Mayor’s Order 89-224: Establishment — D.C. Commission on Budget and Financial Priorities. — See Mayor’s Order 90-198, December 13, 1990.

§ 47-303. Multiyear capital improvements plan [Charter Provision].

The Mayor shall prepare and include in the annual budget a multiyear capital improvements plan for all agencies of the District which shall be based upon the approved current fiscal year budget and shall include:

(1) The status, estimated period of usefulness, and total cost of each capital project on a full funding basis for which any appropriation is requested or any expenditure will be made in the forthcoming fiscal year and at least 4 fiscal years thereafter, including an explanation of change in total cost in excess of 5% for any capital project included in the plan of the previous fiscal year;

(2) An analysis of the plan, including its relationship to other programs, proposals, or elements developed by the Mayor as the central planning agency for the District pursuant to § 1-244;

(3) Identification of the years and amounts in which bonds would have to be issued, loans made, and costs actually incurred on each capital project identified; and

(4) Appropriate maps or other graphics. (1973 Ed., § 47-223; Dec. 24, 1973, 87 Stat. 800, Pub. L. 93-198, title IV, § 444.)

Charter provisions. — This section of the D.C. Code is § 444 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 1-2005, 47-301, 47-302, 47-318, and 47-336.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Annual plan for capital outlay borrowing from United States Treasury. — Section 118 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided that at the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings and provided, that within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

Approval by Council required prior to capital borrowing. — Section 119 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided that the Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

General obligation bonds authorized. — D.C. Law 5-115, effective September 26, 1984, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 6-60, effective November 19, 1985,

authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

Capital projects funds borrowing authority resolution. — Pursuant to Resolution 5-719, the “Capital Projects Funds Borrowing Authorization Resolution of 1984,” effective June 12, 1984, the Council approved the request of the Mayor for authority to borrow funds for capital projects.

Issuance of general obligation bonds authorized. — Pursuant to Resolution 6-714, the “General Obligation Bonds Issuance Authorization Resolution of 1986,” effective June 17, 1986, the Council authorized the issuance of general obligation bonds for capital projects.

Pursuant to Resolution 7-96, the “General Obligation Bonds Issuance Authorization Resolution of 1987,” effective July 14, 1987, the Council authorized the issuance of general obligation bonds for capital projects.

Pursuant to Resolution 8-33, the “General Obligation Bond Issuance Approval Resolution of 1989,” effective April 18, 1989, the Council approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

Pursuant to Resolution 8-246, the “General Obligation Bond Issuance 1990B Authorization Resolution of 1990,” effective July 27, 1990, the Council approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

Submission date for budget request for fiscal year 1992. — Pursuant to Resolution 8-312, the “Submission Date for the Fiscal Year 1992 Budget Approval Resolution of 1990,” effective December 21, 1990, the Council established the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992, and identified information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 1992.

General Obligation Bond Issuance 1991A Authorization Resolution of 1991. — Pursuant to Resolution 9-39, effective May 24, 1991, the Council approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

General Obligation Bond Issuance Approval Resolution of 1993. — Pursuant to Resolution 10-49, effective June 11, 1993, the Council conditionally approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

General Obligation Bond Issuance Conditional Approval Resolution of 1994. — Pursuant to Resolution 10-392, effective June 21, 1994, the Council conditionally approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

General Obligation Bond 1996 Issuance Authorization Emergency Resolution of 1996. — Pursuant to Resolution 11-545, effective October 1, 1996, the Council approved, on an emergency basis, authorization for the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

Capital Program Coordinating Office established. — See Mayor's Order 84-87, May 16, 1984.

§ 47-304. Adoption of budget by Council; enactment of appropriations by Congress [Charter Provision].

The Council, within 50 calendar days after receipt of the budget proposal from the Mayor, and after public hearing, shall by act adopt the annual budget for the District of Columbia government. Any supplements thereto shall also be adopted by act by the Council after public hearing. Such budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress. Except as provided in §§ 47-326.1(d), 47-327(c), 47-328(d)(2), 47-331.2(d), and subsections (f), (g)(3), and (h)(3) of § 47-334, no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by act of Congress, and then only according to such act. Notwithstanding any other provision of this Act, the Mayor shall not transmit any annual budget or amendments or supplements thereto, to the President of the United States until the completion of the budget procedures contained in this Act. After the adoption of the annual budget for a fiscal year (beginning with the annual budget for fiscal year 1995), no reprogramming of amounts in the budget may occur unless the Mayor submits to the Council a request for such reprogramming and the Council approves the request, but only if any additional expenditures provided under such request for an activity are offset by reductions in expenditures for another activity. (1973 Ed., § 47-224; Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 446; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 2; Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(b)(1); Aug. 6, 1996, 110 Stat. 1696, Pub. L. 104-184, § 2(c)(2).)

Charter provisions. — This section of the D.C. Code is § 446 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 1-227, 1-229, 1-282, 1-722, 1-1320, 45-3232, 47-326.1, 47-327, 47-328, 47-331.2, 47-334, 47-392.2, 47-392.8, 47-392.21, 47-396.1, and 47-398.3.

Effect of amendments. — Section 301(b)(1) of Pub. L. 104-8, 109 Stat. 142, added the last sentence.

Public Law 104-184 substituted "(g)(3), and (h)(3)" for "and (g)(3)" in the fourth sentence.

References in text. — "This Act," referred to in the next-to-the-last sentence in this section, is the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 87 Stat. 774, Pub. L. 93-198.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the Dis-

trict of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Expenditures for Convention Center activities. — For provisions permitting the Washington Convention Center Authority to expend revenues for Convention Center activities without appropriations, see § 47-396.1.

No appropriation necessary for arena preconstruction activities. — For provisions allowing that no appropriation shall be necessary for preconstruction activities relating to Gallery Place Sports Arena, see § 47-398.3.

Encouragement of Congress to accord self-determination to District as to abortion funding. — Pursuant to Resolution 8-212, the “Equitable Treatment in Abortion Funding Authority Resolution of 1990,” effective March 30, 1990, the Council urged the United States Congress to accord self-determination to the District of Columbia with respect to the funding of abortions, and to end the discrimination against poor women by effectively denying them the right to an abortion through the restriction on funding.

Issuance of general obligation bonds authorized. — Pursuant to Resolution 7-300, the “General Obligation Bond Issuance Approval Resolution of 1988,” effective July 12, 1988, the Council authorized the issuance of general obligation bonds for capital projects.

Capital Projects Funds Borrowing Emergency Authorization Resolution of 1995. — Pursuant to Resolution 11-127, effective July 31, 1995, the Council approved, on an emergency basis, the borrowing of funds for capital projects by the District from the United States Treasury.

Apportionment of FY 1990 Appropriations and Pending Rescissions of the FY 1990 Supplemental Budget & Rescissions of Authority Request Act of '90. — See Mayor's Order 90-69, April 30, 1990.

Fiscal Year 1990 Expenditure Controls. — See Mayor's Order 90-92, June 25, 1990, as amended by Mayor's Order 90-97, July 12, 1990.

Reduction of Expenditures by all District Government Agencies. — See Mayor's Order 90-103, July 19, 1990.

Establishment of FY 1991 expenditure ceilings. — See Mayor's Order 90-122, September 27, 1990.

Fiscal Year 1991 executive controls. — See Mayor's Order 90-168, November 9, 1990.

Temporary authorization for Director of Corrections to make grant awards. — Section 2 of D.C. Law 8-192 provided that “notwithstanding any other provision of law, the Director of the Department of Corrections (“Department”) or the Director's designee is hereby authorized to award the following grants out of the Department's appropriations for the fiscal year ending September 30, 1991:

“(1) \$600,000 for a substance abuse program that covers 60 men who are within 5 years of parole eligibility and uses a residential therapeutic drug treatment modality, as described on page 29 of the Report of the Committee on the Judiciary on D.C. Bill 8-516, the Fiscal Year 1991 Budget Request Act, effective April 13, 1990 (D.C. Act 8-188; 37 DCR 2589) (“Budget Request Act”); and

“(2) \$400,000 for job training, including cable television installation, computer operation and repair, word processing, computerized bookkeeping, and job placement, as described on page 28 of the Report of the Committee on the Judiciary on the Budget Request Act.”

Section 3 of D.C. Law 8-192 provided that the provisions of the act shall apply as of November 5, 1990, and shall expire on September 30, 1991.

Section 4(b) of D.C. Law 8-192 provided that the act shall expire on the 225th day of its having taken effect.

Sequestration orders. — Section 124 of Pub. L. 104-194, 110 Stat. 2367, the District of Columbia Appropriations Act, 1997, provided that for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term “program, project, and activity” shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

Section 125 of Pub. L. 104-194, 110 Stat. 2367, the District of Columbia Appropriations Act, 1997, provided that in the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request there-

for from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

Transmittal of annual budget to Congress. — Section 110 of Pub. L. 104-134, the District of Columbia Appropriations Act, 1996, provided that the annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104-8, approved April 17, 1995.

Budget approval for fiscal year ending September 30, 1996. — Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I

FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, \$660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), \$52,070,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$149,130,000 and 1,498 full-time equivalent

positions (end of year) (including \$117,464,000 and 1,158 full-time equivalent positions from local funds, \$2,464,000 and 5 full-time equivalent positions from Federal funds, \$4,474,000 and 71 full-time equivalent positions from other funds, and \$24,728,000 and 264 full-time equivalent positions from intra-District funds): *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That \$29,500,000 is for pay-as-you-go capital projects of which \$1,500,000 shall be for a capital needs assessment study, and \$28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which \$2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining \$26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: *Provided further*, That the \$26,000,000 shall not be obligated or expended until:

(1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress: *Provided further*, That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve

public school facilities in the same ward as the Hamilton School.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including \$68,203,000 and 698 full-time equivalent positions from local funds, \$38,792,000 and 509 full-time equivalent positions from Federal funds, \$17,658,000 and 258 full-time equivalent positions from other funds, and \$16,330,000 and 227 full-time equivalent positions from intra-District funds): *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including \$940,631,000 and 11,365 full-time equivalent positions from local funds, \$8,942,000 and 70 full-time equivalent positions from Federal funds, \$5,160,000 and 4 full-time equivalent positions from other funds, and \$9,115,000 and 105 full-time equivalent positions from intra-District funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to

replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That \$250,000 is used for the Georgetown Summer Detail; \$200,000 is used for East of the River Detail; \$100,000 is used for Adams Morgan Detail; and \$100,000 is used for the Capitol Hill Summer Detail: *Provided further*, That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed \$1,500 for the Chief Judge of the District of Columbia Court of Appeals, \$1,500 for the Chief Judge of the Superior Court of the District of Columbia, and \$1,500 for the Executive Officer of the District of Columbia Courts shall be available

from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed \$100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including \$676,251,000 and 9,996 full-time equivalent positions from local funds, \$87,385,000 and 1,227 full-time equivalent positions from Federal funds, \$21,719,000 and 234 full-time equivalent positions from other funds, and \$9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: \$580,996,000 and 10,167 full-time equivalent positions (including \$498,310,000 and 9,014 full-time equivalent positions from local funds, \$75,786,000 and 1,058 full-time equivalent positions from Federal funds, \$4,343,000 and 44 full-time equivalent positions from other funds, and \$2,557,000 and 51

full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; \$111,800,000 (including \$111,000,000 from local funds and \$800,000 from intra-District funds) shall be allocated for the District of Columbia Teachers' Retirement Fund; \$79,396,000 and 1,079 full-time equivalent positions (including \$45,377,000 and 572 full-time equivalent positions from local funds, \$10,611,000 and 156 full-time equivalent positions from Federal funds, \$16,922,000 and 189 full-time equivalent positions from other funds, and \$6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; \$20,742,000 and 415 full-time equivalent positions (including \$19,839,000 and 408 full-time equivalent positions from local funds, \$446,000 and 6 full-time equivalent positions from Federal funds, \$454,000 and 1 full-time equivalent position from other funds, and \$3,000 from intra-District funds) for the Public Library; \$2,267,000 and 9 full-time equivalent positions (including \$1,725,000 and 2 full-time equivalent positions from local funds and \$542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, \$1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including \$1,076,856,000 and 3,650 full-time equivalent positions from local funds, \$726,685,000 and 2,639 full-time equivalent positions from Federal funds, \$46,799,000 and 66 full-time equivalent positions from other funds, and \$4,674,000 and 114 full-time equivalent positions from intra-District funds): *Provided*, That \$26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia em-

ployees' disability compensation: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$297,568,000 and 1,914 full-time equivalent positions (end-of-year) (including \$225,915,000 and 1,158 full-time equivalent positions from local funds, \$2,682,000 and 32 full-time equivalent positions from Federal funds, \$18,342,000 and 68 full-time equivalent positions from other funds, and \$50,629,000 and 656 full-time equivalent positions from intra-District funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, \$5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Govern-

ment and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of \$46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: *Provided*, That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: *Provided further*, That the Congress hereby ratifies and approves legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: *Provided further*, That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the proce-

dures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-363), \$4,563,000 from local funds: *Provided*, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, \$19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, \$1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this title in the amount of \$500,000: *Provided*, That this provision shall not apply to any board or commission established under title II of this Act.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of \$16,000,000 within one or several of the various appropriation headings in this Title.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, \$168,222,000 (including \$82,850,000 from local funds and \$85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provi-

sions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That \$105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, \$242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including \$237,076,000 and 924 full-time equivalent positions from local funds, \$433,000 from other funds, and \$4,744,000 and 100 full-time equivalent positions from intra-District funds), of which \$41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, \$39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of

Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), \$229,950,000 and 88 full-time equivalent positions (end-of-year) (including \$7,950,000 and 88 full-time equivalent positions for administrative expenses and \$222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,351,000 and 8 full-time equivalent positions (end-of-year) (including \$2,019,000 and 8 full-time equivalent positions from local funds and \$332,000 from other funds), of which \$572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, \$6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, \$115,034,000, of which \$56,735,000 shall be derived by transfer as intra-District funds from the general fund, \$52,684,000 is to

be derived from the other funds, and \$5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1-711), \$13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$10,516,000 and 66 full-time equivalent positions (end-of-year) (including \$3,415,000 and 22 full-time equivalent positions from other funds and \$7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$37,957,000, of which \$5,400,000 shall be derived by transfer from the general fund. District of Columbia Financial Responsibility and Management Assistance.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), \$3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104-8, approved April

17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of \$150,907,000, within or among one or several of the various appropriation headings in this Title, pursuant to section 208 of Public Law 104-8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing

contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445, 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104-8, approved April 17, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.): *Provided*, That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104-8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by

the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bid-

ding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganiza-

tion Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, sec. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or

governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION FOR THE COMMISSION ON JUDICIAL
DISABILITIES AND TENURE AND FOR THE
JUDICIAL NOMINATION
COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93-198; D.C. Code, secs. 11-1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11-1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission."

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission."

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93-198; D.C. Code, sec. 1-1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by

act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved."

CALCULATED REAL PROPERTY TAX RATE RESCISSION
AND REAL PROPERTY
TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47-801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47-812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year."

(B) A new subsection (a-2) is added to read as follows:

"(a-2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994."

(2) Section 413(c) (D.C. Code, sec. 47-815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this

Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing.

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later

than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center, responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, fund-

ing source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) **SUBMISSION.**—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than May 1, 1996, and each February 15 thereafter.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

BUDGET APPROVAL

SEC. 142. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reor-

ganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, (D.C. Code, sec. 1-601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

“(13A) The term ‘nonschool-based per-

sonnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools."; and

(2) in section 801A(b)(2) (D.C. Code, sec. 1-609.1(b)(2)(L))—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers."; and

(3) in section 2402 (D.C. Code, sec. 1-625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers."

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council

of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), is amended as follows:

Section 2401 (D.C. Code, sec. 1-625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency."

A new section 2406 is added to read as follows: "Sec. 2406. Abolishment of positions for Fiscal Year 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to August 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled

to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished

by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

OPERATING EXPENSES AND GRANTS

SEC. 150. (a) CEILING ON TOTAL OPERATING EXPENSES. —Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed \$4,994,000,000 of which \$165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING. —

(1) IN GENERAL. — Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL. — No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104-8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104-8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT. — No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS. — The Chief Finan-

cial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

SEC. 151. (a) PLAN FOR SHORT-TERM IMPROVEMENTS. —

(1) **IN GENERAL. —** Not later than July 1, 1996, the National Institute of Corrections (acting for and on behalf of the District of Columbia) shall enter into an agreement with a private contractor to develop a plan for short-term improvements in the administration of the District of Columbia Department of Corrections (hereafter referred to as the "Department") and the administration and physical plant of the Lorton Correctional Complex (hereafter referred to as the "Complex") which may be initiated during a period not to exceed 5 months.

(2) **CONTENTS OF PLAN. —** The plan developed under paragraph shall address the following issues:

(A) The reorganization of the central office of the Department, including the consolidation of units and the redeployment of personnel.

(B) The establishment of a centralized inmate classification unit.

(C) The implementation of a revised classification system for sentenced inmates.

(D) The development of a projection for the number of inmates under the authority of the Department over a 10-year period.

(E) The improvement of Department security operations.

(F) Capital improvements.

(G) The preparation of a methodology for developing and assessing options for the long-term status of the Complex and the Department (consistent with the requirements for the development of plans under subsection (b)).

(H) Other appropriate miscellaneous issues.

(3) **SUBMISSION OF PLAN. —** Upon completing the plan under paragraph (1) (but in no event later than September 30, 1996), the National Institute of Corrections shall submit the plan to the Mayor of the District of Columbia, the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

(b) OPTIONAL PLANS FOR LONG-TERM TREATMENT OF COMPLEX. —

(1) **IN GENERAL. —** Not later than July 1, 1996, the National Institute of Corrections

(acting for and on behalf of the District of Columbia) shall enter into an agreement with a private contractor to develop a series of alternative plans regarding the long-term status of the Complex and the future operations of the Department, including the following:

(A) A separate plan under which the Complex will be closed and inmates transferred to new facilities constructed and operated by private entities.

(B) A separate plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate.

(C) A separate plan under which the Federal government will operate the Complex and inmates will be sentenced and treated in accordance with guidelines applicable to Federal prisoners.

(C) A separate plan under which the Complex will be operated under private management.

(E) Such other plans as the District of Columbia consider appropriate.

(2) **REQUIREMENTS FOR PLANS. —** Each of the alternative plans developed under paragraph (1) shall meet the following requirements:

(A) The plan shall provide for an appropriate transition period for implementation (not to exceed 5 years) to begin January 1, 1997.

(B) The plan shall specify the extent to which the Department will utilize alternative and cost-effective management methods, including the use of private management and vendors for the operation of the facilities and activities of the Department, including (where appropriate) the Complex.

(C) The plan shall include an implementation schedule specifying timetables for the completion of all significant activities, including site selection for new facilities, design, financing, construction, recruitment and hiring of personnel, training, adoption of new policies and procedures, and the establishment of essential administrative organizational structures to carry out the plan.

(D) In determining the bed capacity required for the Department through 2002, the plan shall use the population projections developed under the plan under subsection (a).

(E) The plan shall identify any Federal or District legislation which is required to be enacted, and any District regulations, policies, or procedures which are required to be adopted, in order for the plan to take effect.

(F) The plan shall take into account any

court orders and consent decrees in effect with respect to the Department and shall describe how the plan will enable the District to comply with such orders and decrees.

(G) The plan shall include estimates of the operating and capital expenses for the Department for each year of the plan's transition period, together with the primary assumptions underlying such estimates.

(H) The plan shall require the Mayor of the District of Columbia to submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall require the Mayor to regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all measures taken under the plan as soon as such measures are taken.

(I) For each year for which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) SUBMISSION OF PLAN. — Upon completing the development of the alternative plans under paragraph (1) (but in no event later than December 31, 1996), the National Institute of Corrections shall submit the plan to the Mayor of the District of Columbia, the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

CHIEF FINANCIAL OFFICER POWERS

SEC. 152. Notwithstanding any other provision of law, for the fiscal years ending September 30, 1996 and September 30, 1997—

(a) the heads and all personnel of the following offices, together with all other District of Columbia executive branch accounting, budget, and financial management personnel, shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.

The Controller of the District of Columbia.

The Office of the Budget.

The Office of Financial Information Services.

The Department of Finance and Revenue.

The District of Columbia Financial Respon-

sibility and Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(b) the Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1993, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for fiscal years 1996, 1997 and 1998, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of such Act, without revision but subject to recommendations. Notwithstanding any other provisions of such Act, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES. —Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY. —

(1) FORMER FEDERAL EMPLOYEES. — Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY. —

"(1) IN GENERAL. —Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave ac-

crual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION. —An election made by an individual under the provisions of paragraph (1)(A) —

"(A) shall qualify such individual for the treatment described in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE. —An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS. —If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS. —Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved."

(2) OTHER INDIVIDUALS. — Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS. —

"(1) IN GENERAL. — The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

"(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A)(i)-(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION. — An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'. — For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN. — To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'."

(3) "EFFECTIVE DATE; ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT; ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD. —

(A) EFFECTIVE DATE. — Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT. —

(i) IN GENERAL. — Any former Federal employee employed by the Authority on the effective date of the regulations re-

ferred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION. — An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD. —

(i) FROM THE FEDERAL GOVERNMENT. — Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS. — The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in

effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES. — Section 104 of such Act is amended—

(1) by striking “the Authority and its members” and inserting “the Authority, its members, and its employees”; and

(2) by striking “the District of Columbia” and inserting “the Authority or its members or employees or the District of Columbia”.

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT. —

(1) CONTENTS OF ACCOUNT. — There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT. — Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT. —

(1) CONTENTS OF ACCOUNT. — There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the En-

vironmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) **USE OF FUNDS IN ACCOUNT.** — Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979) to the D.C. Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

CONVEYANCE OF CERTAIN PROPERTY TO ARCHITECT OF THE CAPITOL

SEC. 156. Pursuant to section 1(b)(2) of Public Law 98-340 and in accordance with the agreement entered into between the Architect of the Capitol and the District of Columbia pursuant to such Act (as executed on September 28, 1984), not later than 30 days after the date of the enactment of this Act the District of Columbia shall convey without consideration by general warranty deed to the Architect of the Capitol on behalf of the United States all right, title, and interest of the District of Columbia in

the real property (including improvements and appurtenances thereon) within the area known as "D.C. Village" and described in Attachment A of the agreement.

This title may be cited as the "District of Columbia Appropriations Act, 1996".

Budget approval for fiscal year ending September 30, 1997. — An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1997, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), \$52,070,000.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursement for expenses incurred in connection with Presidential inauguration activities, \$5,702,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803), which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

For a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with a private entity (or entities) to carry out a program to inspect, flush, and repair the drinking water distribution system of the District of Columbia, \$1,000,000.

[DIVISION OF EXPENSES]

The following amounts are appropriated for the District of Columbia for the current fiscal

year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$115,663,000 and 1,440 full-time equivalent positions (including \$98,691,000 and 1,371 full-time equivalent positions from local funds, \$12,192,000 and 8 full-time equivalent positions from Federal funds, and \$4,780,000 and 61 full-time equivalent positions from other funds): *Provided*, That funds expended for the Office of the Mayor are not to exceed \$2,109,000, of which \$632,000 is from intra-District funds: *Provided further*, That \$327,000 of the funds for the Office of the Mayor shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services: *Provided further*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$135,704,000 and 1,501 full-time equivalent positions (including \$67,196,000 and 720 full-time equivalent positions from local funds, \$45,708,000 and 524 full-time equivalent positions from Federal funds, and \$22,800,000 and 257 full-time equivalent positions from other funds).

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$1,041,281,000 and 11,842 full-time equivalent positions (including \$1,012,112,000 and 11,726 full-time equivalent positions from local funds, \$19,310,000 and 112 full-time equivalent positions from Federal funds, and \$9,859,000 and 4 full-time equivalent positions from other funds): *Provided*, That the Metropolitan Police Department is autho-

rized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed \$1,500 for the Chief Judge of the District of Columbia Court of Appeals, \$1,500 for the Chief Judge of the Superior Court of the District of Columbia, and \$1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain informa-

tion from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed \$100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1997, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$758,815,000 and 11,276 full-time equivalent positions (including \$632,379,000 and 10,045 full-time equivalent positions from local funds, \$98,479,000 and 1,009 full-time equivalent positions from Federal funds, and \$27,957,000 and 222 full-time equivalent positions from other funds), to be allocated as follows: \$573,430,000 and 9,935 full-time equivalent positions (including \$479,679,000 and 9,063 full-time equivalent positions from local funds, \$85,823,000 and 840 full-time equivalent positions from Federal funds, and \$7,928,000 and 32 full-time equivalent positions from other funds), for the public schools of the District of Columbia; \$2,835,000 from local funds for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 1, 1997, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of

Columbia School Reform Act of 1995 (Public Law 104-134); \$88,100,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$69,801,000 and 917 full-time equivalent positions (including \$38,479,000 and 572 full-time equivalent positions from local funds, \$11,747,000 and 156 full-time equivalent positions from Federal funds, and \$19,575,000 and 189 full-time equivalent positions from other funds) for the University of the District of Columbia; \$22,429,000 and 415 full-time equivalent positions (including \$21,529,000 and 408 full-time equivalent positions from local funds, \$446,000 and 6 full-time equivalent positions from Federal funds, and \$454,000 and 1 full-time equivalent position from other funds) for the Public Library; \$2,220,000 and 9 full-time equivalent positions (including \$1,757,000 and 2 full-time equivalent positions from local funds and \$463,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That not less than \$9,200,000 shall be available from this appropriation for school repairs in a restricted line item: *Provided further*, That not less than \$1,200,000 shall be available for local school allotments in a restricted line item: *Provided further*, That not less than \$4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further*, That not less than \$2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further*, That not less than \$1,788,000 shall be available in a restricted line item for school counselors: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1997, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, \$1,685,707,000 and 6,344 full-time equivalent positions (including \$961,399,000 and 3,814 full-time equivalent positions from local funds, \$676,665,000 and

2,444 full-time equivalent positions from Federal funds, and \$47,643,000 and 86 full-time equivalent positions from other funds): *Provided*, That \$24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$247,967,000 and 1,252 full-time equivalent positions (including \$234,391,000 and 1,149 full-time equivalent positions from local funds, \$3,047,000 and 32 full-time equivalent positions from Federal funds, and \$10,529,000 and 71 full-time equivalent positions from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, \$5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles

International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$333,710,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$38,314,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$34,461,000 from local funds.

PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), \$5,702,000, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,926,000.

HUMAN RESOURCES DEVELOPMENT

For Human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, \$12,257,000.

COST REDUCTION INITIATIVES

The Chief Financial Officer of the District of Columbia shall, on behalf of the Mayor and under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority, make reductions of \$47,411,000 and 2,411 full-time equivalent positions as follows: \$4,488,000 in real estate initiatives, \$6,317,000 in management information systems, \$2,271,000 in energy cost ini-

tatives, \$12,960,000 in purchasing and procurement initiatives, and workforce reductions of 2,411 full-time positions and \$21,375,000.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, \$221,362,000 from other funds of which \$41,833,000 shall be apportioned and payable to the debt service fund for repayment of loans

and interest incurred for capital improvement projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), \$247,900,000 and 100 full-time equivalent positions (including \$7,850,000 and 100 full-time equivalent positions for administrative expenses and \$240,050,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,511,000 and 8 full-time equivalent positions (including \$2,179,000 and 8 full-time equivalent positions from local funds and \$332,000 from other funds).

STARPLEX FUND

For the Starplex Fund, \$8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57

of the Board of Commissioners, effective August 15, 1953, \$112,419,000 of which \$59,735,000 shall be derived by transfer from the general fund and \$52,684,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$16,667,000 and 13 full-time equivalent positions from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$3,052,000 and 50 full-time equivalent positions from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$47,996,000 of which \$5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), \$3,400,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, ex-

cept where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation

Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.): *Provided*, That for the fiscal year ending September 30, 1997 the above shall apply except as modified by Public Law 104-8.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1996 shall be deemed to be the rate of pay payable for that position for September 30, 1996.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of Dis-

trict of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1997, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1997 revenue estimates as of the end of the first quarter of fiscal year 1997. These estimates shall be used in the budget request for the fiscal year ending September 30, 1998. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Pub-

lic Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, secs. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1997 if—

- (1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

- (2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative

under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 130. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION OF MEMBERS OF JUDICIAL
NOMINATION COMMISSION

SEC. 131. (a) IN GENERAL. — Effective as if included in the enactment of the District of Columbia Appropriations Act, 1996, section 434(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

“(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.”.

(b) CONFORMING AMENDMENT. — Section 133(b) of the District of Columbia Appropriations Act, 1996 is hereby repealed, and the provision of law amended by such section is hereby restored as if such section had not been enacted into law.

MONTHLY REPORTING REQUIREMENTS—BOARD OF
EDUCATION

SEC. 132. The Board of Education shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

- (1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility cen-

ter, agency reporting code, and object class, and for all funds, including capital financing;

- (2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;
- (3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;
- (4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;
- (5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and
- (6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 133. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

- (1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;
- (2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds,

- including capital funds;
- (3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;
 - (4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;
 - (5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and
 - (6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 134. (a) IN GENERAL. — The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

- (1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and
- (2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade

and classification, annual salary, and position control number.

(b) SUBMISSION. — The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 135. (a) No later than October 1, 1996, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1997, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

EDUCATIONAL BUDGET APPROVAL

SEC. 136. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 137. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be

a non-negotiable item for collective bargaining purposes.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 138. The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), is amended—

(1) in section 301 (D.C. Code, sec. 1-603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

“(13A) The term ‘nonschool-based personnel’ means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students.”; and

(B) by inserting after paragraph (15), the following new paragraph:

“(15A) The term ‘school administrators’ means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.”;

(2) in section 801A(b)(2) (D.C. Code, sec. 1-609.1(b)(2)(L))—

(A) by striking “(L) reduction-in-force” and inserting “(L)(i) reduction-in-force”; and

(B) by inserting after subparagraph (L)(i), the following new clause:

“(ii) notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”; and

(3) in section 2402 (D.C. Code, sec. 1-625.2), by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”.

SEC. 139. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 140. (a) Section 2401 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-625.1 et seq.) is amended by amending the third sentence to read as follows: “A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency’s mission or a division or major subdivision of an agency.”.

(b) The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), as amended by section 149 of the District of Columbia Appropriations Act, 1996 (Public Law 104-134), is amended by adding at the end the following new section:

“SEC. 2407. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1997.

“(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1997, each agency head is authorized, within the agency head’s discretion, to identify positions for abolishment.

“(b) Prior to February 1, 1997, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

“(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

“(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee’s competitive level.

“(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

“(f) Each employee selected for separation pursuant to this section shall be given written

notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veterans preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1997, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1997, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section."

CEILING ON EXPENSES AND DEFICIT

SEC. 141. (a) CEILING ON TOTAL OPERATING EXPENSES AND DEFICIT. —

(1) IN GENERAL. — Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1997 under the caption "Division of Expenses" shall not exceed the lesser of—

(A) the sum of the total revenues of the

District of Columbia for such fiscal year and \$74,000,000; or

(B) \$5,108,913,000 (of which \$134,528,000 shall be from intra-District funds).

(2) ENFORCEMENT. — The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1997.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING. —

(1) IN GENERAL. — Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL. — No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104-8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT. — No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS. — The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the

House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

CHIEF FINANCIAL OFFICER POWERS DURING CONTROL PERIODS

SEC. 142. Notwithstanding any other provision of law, during any control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 the following shall apply:

- (a) The heads and all personnel of the following offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.

The Controller of the District of Columbia.

The Office of the Budget.

The Office of Financial Information Services.

The Department of Finance and Revenue.
The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

- (b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for each fiscal year occurring during a control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reor-

ganization Act, Public Law 93-198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 143. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1997 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979) to the District of Columbia Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

SEC. 144. (a) Section 451(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803; D.C. Code, sec. 1-1130(c)(3)), is amended by striking the word "section" and inserting the word "subsection" in its place.

DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 145. Section 2204(c)(2) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

"(2) TUITION, FEES, AND PAYMENTS.—

"(A) PROHIBITION. — A public charter school may not, with respect to any student other than a nonresident student, charge tuition, impose fees, or otherwise require payment for participation in any program, educational offering, or activity that—

"(i) enrolls students in any grade from kindergarten through grade 12; or

"(ii) is funded in whole or part through an annual local appropriation.

“(B) EXCEPTION. — A public charter school may impose fees or otherwise require payment, at rates established by the Board of Trustees of the school, for any program, educational offering, or activity not described in clause (i) or (ii) of subparagraph (A), including adult education programs, or for field trips or similar activities.”.

SEC. 146. (a) COMPLIANCE WITH BUY AMERICAN ACT. — None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE. —

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS. — In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE. — In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA. — If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 147. Notwithstanding any other law, the District of Columbia Housing Finance Agency, established by section 210 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111) shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

SEC. 148. Section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

“(b) LIMITATION. — A waiver under subsection (a) shall not apply to requirements under 40

U.S.C. 267a-276a-7 and Executive Order 11246.”.

ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES

SEC. 149. The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104-8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

REDUCTION IN MINIMUM NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF AMERICAN UNIVERSITY

SEC. 150. The first section of the Act entitled “An Act to incorporate the American University”, approved February 24, 1893, (27 Stat. 476), is amended by striking “forty” and inserting “twenty-five”.

WAIVER OF CONGRESSIONAL REVIEW FOR CERTAIN COUNCIL ACTS

SEC. 151. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the following District of Columbia acts shall take effect on the date of the enactment of this Act:

- (1) The District of Columbia Real Property Tax Lien Assignment or Sale and Transfer Amendment Act of 1996 (D.C. Act 11-353).
- (2) The Telecommunications Competition Act of 1996 (D.C. Act 11-300).
- (3) The Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11-309).

This Act may be cited as the District of Columbia Appropriations Act, 1997.

Initiatives cannot intrude upon Council's authority to allocate revenues. — An initiative cannot amend the allocation in a Budget Request Act to require that additional revenues or all revenues from a particular source be devoted to a specific purpose. Matters relating to the local budget process which Con-

gress delegated to the District government in the Self-Government Act remain with the elected officials of the District government, and are not subject to control by the electorate through an initiative or the right of referendum. *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

The interpretation most consistent with the District government's unique fiscal status equates "laws appropriating funds" with "acts allocating funds" in recognition of the nature of the Council's role in the budget process, and its financial responsibilities under the charter, balancing the right of initiative with the charter's provisions for sound financial management by the District government's elected officials. *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

Council could seek to halt ongoing project during current fiscal year: (1) By repealing the substantive authorizing legislation, followed by a supplemental budget request act seeking rescission or transfer of appropriations; or (2) initially adopting a supplemental budget request act seeking rescission or transfer of appropriated funds. Con-

vention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics, App. D.C., 441 A.2d 889 (1981).

Use of funds contrary to law enjoined. — The use of public funds for the purpose of opposing an initiative was neither authorized by statute nor permitted by the First Amendment, and therefore, the court enjoined the District from expending public funds to prepare or distribute materials supporting or opposing an initiative, referendum or other ballot measure. *District of Columbia Common Cause v. District of Columbia*, 858 F.2d 1 (D.C. Cir. 1988).

Cited in Convention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics, App. D.C., 441 A.2d 871 (1980), *aff'd* on rehearing, App. D.C., 441 A.2d 889 (1981); *Spivey v. Barry*, 665 F.2d 1222 (D.C. Cir. 1981); *Hessey v. Burden*, App. D.C., 615 A.2d 562 (1992); *District of Columbia v. American Fed'n of Gov't Employees*, App. D.C., 619 A.2d 77 (1993), *cert. denied*, 510 U.S. 933, 114 S. Ct. 347, 126 L. Ed. 2d 312 (1993); *Dorsey v. District of Columbia Bd. of Elec. & Ethics*, App. D.C., 648 A.2d 675 (1994); *United States v. Shuler*, 123 WLR 693 (Super. Ct. 1995).

§ 47-304.1. Reductions in budgets of independent agencies. [Charter Provision].

(a) In accordance with subsection (b) of this section and except as provided in subsection (c) of this section, the Mayor may reduce amounts appropriated or otherwise made available to independent agencies of the District of Columbia (including the Board of Education) for a fiscal year if the Mayor determines that it is necessary to reduce such amounts to balance the District's budget for the fiscal year.

(b)(1) The Mayor may not make any reduction pursuant to subsection (a) of this section unless the Mayor submits a proposal to make such a reduction to the Council and the Council approves the proposal.

(2) A proposal submitted by the Mayor under paragraph (1) of this subsection shall be deemed to be approved by the Council:

(A) If no member of the Council files a written objection to the proposal with the Secretary of the Council before the expiration of the 10-day period that begins on the date the Mayor submits the proposal; or

(B) If a member of the Council files such a written objection during the period described in subparagraph (A) of this paragraph, if the Council does not disapprove the proposal prior to the expiration of the 45-day period that begins on the date the member files the written objection.

(3) The periods described in subparagraphs (A) and (B) of paragraph (2) of this subsection shall not include any days which are days of recess for the Council (according to the Council's rules).

(c) Subsection (a) of this section shall not apply to amounts appropriated or otherwise made available to the District of Columbia courts, the Council, the

District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a), or the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996. (Dec. 24, 1973, 87 Stat. 803, Pub. L. 93-198, title IV, § 453 as added by § 2 of Pub. L. 102-106, 105 Stat. 539; Apr. 17, 1995, 109 Stat. 106, Pub. L. 104-8, § 106(a)(4); Aug. 6, 1996, 110 Stat. 1698, Pub. L. 104-184, § 4(b).)

Charter provision. — This section of the D.C. Code is § 453 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Effect of amendments. — Section 106(a)(4) of Pub. L. 104-8, 109 Stat. 106, added “or to the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a)” at the end of (c).

Public Law 104-184, in (c), substituted “courts, the Council” for “courts or the Council, or to,” and added the language beginning “or the District of Columbia Water and Sewer Authority” to the end.

References in text. — The “Council’s rules,” referred to in (b)(3), are the Rules of Organization and Procedure for the Council of the District of Columbia which are set out in the supplement as a note following § 1-227.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-305. Consistency of budget, accounting, and personnel systems [Charter Provision].

The Mayor shall implement appropriate procedures to insure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis. No employee shall be hired on a full-time or part-time basis unless such position is authorized by act of Congress. Employees shall be assigned in accordance with the program, organization, and fund categories specified in the act of Congress authorizing such position. Hiring of temporary employees and temporary employee transfers among programs shall be consistent with applicable acts of Congress and reprogramming procedures to insure that costs are accurately associated with programs and sources of funding. (1973 Ed., § 47-225; Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 447.)

Charter provisions. — This section of the D.C. Code is § 447 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in § 47-375.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Govern-

mental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Cited in Convention Ctr. Referendum

Comm. v. District of Columbia Bd. of Elections & Ethics, App. D.C., 441 A.2d 889 (1981); Hazel v. Barry, App. D.C., 580 A.2d 110 (1990); Hessey

v. District of Columbia Bd. of Elections & Ethics, App. D.C., 601 A.2d 3 (1991).

§ 47-306. Submission and approval of gross planning budget.

Pursuant to §§ 47-310(a)(3) and 47-313(c) and (d), the Mayor shall annually, and prior to transmittal of the budget of the District to the President of the United States, submit to the Council a gross planning budget for the District, which shall include, but not be limited to, the amount of estimated revenue by source, including all sources, and the planned obligation of all revenue presented at responsibility center detail. The gross planning budget shall be approved by resolution of the Council. (Sept. 16, 1980, D.C. Law 3-104, § 7, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-307. Submission of control budget.

(a) Within 14 days of Congressional approval of the appropriated budget of the District, the Mayor shall submit to the Council an act to establish the control budget of the District, including all revenue sources, which shall be presented in responsibility center detail; provided, that nothing in this section may be construed as giving the Council the power to modify any action taken by the Congress in the appropriations act for the District.

(b) Prior to the obligation during the fiscal year of any grant funds awarded subsequent to the start of the fiscal year, the Mayor shall submit to the Council an act to establish such grant award as part of the control budget of the District, and such grant award shall be submitted in responsibility center detail. (Sept. 16, 1980, D.C. Law 3-104, § 8, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-308. Establishment of budget structure.

(a) Within 30 days of the Mayor's first call with respect to the preparation of the budget for fiscal year 1982, and any subsequent fiscal year, the Mayor shall submit to the Council a resolution to establish the budget structure, including but not limited to designating control centers and responsibility centers, and a designation of all those entities as they are proposed for financial management purposes within the gross planning budget.

(b) The Council shall consider such resolution according to its rules. Should no written notice of disapproval of such resolution be filed by any member of the Council with the Secretary to the Council within 14 days of the receipt of such resolution from the Mayor, the resolution shall be deemed to be approved. Should notice of disapproval be filed during such initial 14 day period, the

Council shall dispose of such notice of disapproval within 30 days of the initial receipt of the resolution from the Mayor, or the resolution to establish the budget structure shall be deemed to be approved.

(c) No such resolution may be submitted to the Council during such time as the Council is on recess, according to its rules, nor shall any time period provided in this section continue to run during such time as the Council is in process.

(d) If the Council disapproves such resolution, the Mayor may, on a clear showing of changed circumstance, new information, or additional administrative hardship, ask for a reconsideration of the previous action of the Council. The Council may in its discretion reconsider its previous action. (Sept. 16, 1980, D.C. Law 3-104, § 9, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

Annual budget structure approved. — Pursuant to Resolution 7-210, the “Budget Structure for the Fiscal Year 1989 Budget Ap-

proval Resolution of 1988”, effective February 2, 1988, the Council approved the proposed budget structure for the fiscal year ending September 30, 1989.

§ 47-309. Borrowing of funds by Mayor.

The Mayor is authorized to borrow funds from the United States Treasury in anticipation of the collection or receipt of revenues; provided, that each such borrowing is approved by the Council in advance of such borrowing by resolution. (Sept. 16, 1980, D.C. Law 3-104, § 10, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-310. Financial duties of Mayor [Charter Provision].

(a) Subject to the limitations in § 47-313, the Mayor shall have charge of the administration of the financial affairs of the District and to that end he shall:

(1) Supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(2) Maintain systems of accounting and internal control designed to provide:

(A) Full disclosure of the financial results of the District government’s activities;

(B) Adequate financial information needed by the District government for management purposes;

(C) Effective control over and accountability for all funds, property, and other assets;

(D) Reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget;

(3) Submit to the Council a financial statement in any detail and at such times as the Council may specify;

(4) Submit to the Council, by February 1st of each fiscal year, a complete financial statement and report for the preceding fiscal year;

(5) Supervise and be responsible for the assessment of all property subject to assessment and special assessments within the corporate limits of the District for taxation, prepare tax maps, and give such notice of taxes and special assessments, as may be required by law;

(6) Supervise and be responsible for the levying and collection of all taxes, special assessments, license fees, and other revenues of the District, as required by law, and receive all moneys receivable by the District from the federal government or from any court, agency, or instrumentality of the District;

(7) Have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(8) Have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration, or exchange; and

(9) Apportion the total of all appropriations and funds made available during the fiscal year for obligation so as to prevent obligation or expenditure thereof in a manner which would indicate a necessity for deficiency or supplemental appropriations for such fiscal year, and with respect to all appropriations or funds not limited to a definite period, and all authorizations to create obligations by contract in advance of appropriations, apportion the total of such appropriations or funds or authorizations so as to achieve the most effective and economical use thereof.

(b) Notwithstanding subsection (a) of this section, the Mayor may make any payments required by subsection (b) or subsection (c) of § 47-331.2 and take any actions authorized by an act of the Council under § 47-326.1(b) or under subsection (a)(4)(A), or subsection (e), of § 47-334. (1973 Ed., § 47-226; Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 448; Oct. 13, 1977, 91 Stat. 1155, Pub. L. 95-131, § 2; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 3.)

Charter provisions. — This section of the D.C. Code is § 448 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Cross references. — As to duties of Mayor, see § 1-242.

As to submission of statement of impact on taxpayers of proposed revenue measures, see § 1-243.

Section references. — This section is re-

ferred to in §§ 47-306, 47-371, 47-375, and 47-392.9.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as

part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Apportionment of Fiscal Year 1989 appropriations. — See Mayor’s Memorandum 89-14, May 12, 1989.

Authority of Mayor to contract with private financial institutions. — See §§ 701 to 703 of the Act of June 15, 1976, D.C. Law 1-70.

Furloughing of employees. — See Mayor’s Order 96-72, May 22, 1996 (43 DCR 2919).

Mayor required to reduce funding below level of appropriations. — Under §§ 47-301(a)(1) and 47-313(d), and subsection (a)(9) of this section, the Mayor not only has the authority to reduce funding below the level of appropriations in order to balance the budget, but is required to do so. *Hazel v. Barry*, App. D.C., 580 A.2d 110 (1990).

Mayor cannot unilaterally reduce the Board of Education’s budget. — The Mayor cannot unilaterally reduce the Board of Education’s budget under the Self-Government Act, specifically D.C. Code § 47-301, this section and §§ 47-312(2), 47-313(c) and (d), the federal Anti-Deficiency Act or the D.C. Appropriations Act. *Barry v. Bush*, App. D.C., 581 A.2d 308 (1990).

Creation of Office of Public Advocate for Assessments and Taxation. — Proposed ini-

tiative creating an Office of Public Advocate for Assessments and Taxation with authority to appear and advocate on behalf of public interest and taxpayers in administrative tax assessment proceedings before the Board of Equalization and Review (now the Board of Real Property Assessments and Appeals), and to appeal tax assessments by the Mayor to Superior Court and Court of Appeals, did not impermissibly infringe on the Mayor’s responsibility for assessment of taxable property. *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990).

Insufficient funds to fund recycling efforts. — The Omnibus Budget Support Emergency Act of 1995 does not reflect a legislative intention to restrict the Mayor’s authority to appropriate funds and does not require the Mayor to maintain the curbside collection as required by § 6-3401 et seq. after a determination that these are insufficient funds. *District of Columbia v. Sierra Club*, App. D.C., 670 A.2d 354 (1996).

Cited in Convention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics, App. D.C., 441 A.2d 871 (1980), aff’d on rehearing, App. D.C., 441 A.2d 889 (1981); *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-310.1. Financial Reports by Mayor.

(a) *Submission of quarterly financial reports.* — Not later than fifteen days after the end of every calendar quarter (beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on District of Columbia Appropriations of the House of Representatives and the Senate a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

(b) *Contents of report.* — Each report submitted under subsection (a) of this section with respect to a quarter shall include the following information:

(1) A comparison of actual to forecasted cash receipts and disbursements for each month of that quarter, as presented in the District’s fiscal year consolidated cash forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government’s other funds other than the capital projects fund and trust and agency funds;

(2) A projection of the remaining months’ cash forecast for that fiscal year;

(3) Explanations of (A) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (B) the changes in the remaining months’ forecast as compared to the original forecast for those months of that fiscal year;

(4) The effect of these changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year;

(5) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy

decisions may be necessary which may require the agencies to reduce expenditures in other areas; and

(6) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

(c) *Reporting on nonappropriated funds.* — Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1994, the Mayor shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs on the Senate a report on all revenues and expenditures of the general fund of the District that are characterized as nonappropriated in the Comprehensive Annual Financial Report. The report required by this subsection shall include the following information for each category of nonappropriated funds:

- (1) The source of revenues;
- (2) The object of the expenditures;
- (3) An aging of outstanding accounts receivable and accounts payable;
- (4) The statutory or other legal authority under which such category of funds may be expended without having been appropriated as part of the District's annual budget and appropriations process;

(5) The date when such category of funds was first expended on a nonappropriated basis;

(6) The policy or rationale for why the revenues and expenditures of such funds should not be part of the District's annual budget and appropriations process; and

(7) A reconciliation of the amounts reported under this subsection with the amounts characterized as nonappropriated in the Comprehensive Annual Financial Report. (Sept. 30, 1994, 108 Stat. 2589, Pub. L. 103-334, § 137; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-311. Estimate of expenditures by Mayor.

The Mayor shall, within 10 days of receipt of a request of the chairperson of a Council committee (excluding Saturdays, Sundays and legal holidays), estimate the cost of all expenditures to be incurred by the District of Columbia government under permanent legislation to be adopted by the Council. Within 30 days of the effective date of this section, the Mayor shall adopt standards by which to make such determinations and shall submit such standards to the Council for its disapproval in whole or in part within 30 days of receipt. (Sept. 13, 1980, D.C. Law 3-92, § 703, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was

adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Mayor's Advisory Committee on Finance and Taxes established. — See Mayor's Order 88-59, March 15, 1988.

§ 47-312. Accounting supervision and control [Charter Provision].

The Mayor shall:

(1) Prescribe the forms of receipts, vouchers, bills, and claims to be used by all the agencies, offices, and instrumentalities of the District government;

(2) Examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligations shall become due and payable;

(3) Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) Perform internal audits of accounts and operations and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies. (1973 Ed., § 47-227; Dec. 24, 1973, 87 Stat. 802, Pub. L. 93-198, title IV, § 449.)

Charter provisions. — This section of the D.C. Code is § 449 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 1-605.2, 1-1181.5, and 47-375.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Delegation of Contracting Authority. — See Mayor's Order 92-153, December 1, 1992.

Amendment of Mayor's Order 90-178, Delegation of Contracting Authority. — See Mayor's Order 95-45, March 23, 1995.

Amendment of Mayor's Order 90-178, Delegation of Contracting Authority. —

See Mayor's Order 96-136, September 9, 1996 (43 DCR 5043).

Amendment of Mayor's Order 90-178, Delegation of Contracting Authority. — See Mayor's Order 96-152, October 17, 1996 (43 DCR 5855).

Amendment of Mayor's Order 90-178, Delegation of Contracting Authority; Delegation of Personnel Authority; and Establishment of Position of Administrator in the Commission on Mental Health Services. — See Mayor's Order 96-172, December 9, 1996 (43 DCR 6973).

Amendment of Mayor's Order 96-172, Establishing Position of Administrator in the Commission on Mental Health Services; Appointment of Interim Administrator; Duties of Administrator. — See Mayor's Order 97-6, January 9, 1997 (44 DCR 357).

Mayor cannot unilaterally reduce the Board of Education's budget. — The Mayor cannot unilaterally reduce the Board of Education's budget under the Self-Government Act, specifically D.C. Code §§ 47-301, 47-310, subsection (2) of this section, 47-313(c) and (d), the federal Anti-Deficiency Act or the D.C. Appropriations Act. *Barry v. Bush*, App. D.C., 581 A.2d 308 (1990).

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991); *Wilson v. Dixon*, 120 WLR 33 (Super. Ct. 1992).

§ 47-313. Existing provisions and procedure and practice preserved; borrowing and spending limitations [Home Rule Act Provision].

(a) Nothing in this act shall be construed as making any change in existing law, regulation, or basic procedure and practice relating to the respective roles of the Congress, the President, the federal Office of Management and Budget, and the Comptroller General of the United States in the preparation, review, submission, examination, authorization, and appropriation of the total budget of the District of Columbia government.

(b)(1) No general obligation bonds (other than bonds to refund outstanding indebtedness) or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 14% of the District revenues (less court fees, any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year in which the bonds will be issued. Treasury capital project loans include all borrowings from the United States Treasury, except those funds advanced to the District by the Secretary of the Treasury under the provisions of § 47-3401.

(2) Obligations incurred pursuant to the authority contained in subchapter II of Chapter 3 of Title 2, obligations incurred by the agencies transferred or established by §§ 201 and 202 of this act, whether incurred before or after such transfer or establishment, and obligations incurred pursuant to general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects, shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in the preceding paragraph.

(3) The 14% limitation specified in paragraph (1) of this subsection shall be calculated in the following manner:

(A) Determine the dollar amount equivalent to 14% of the District revenues (less court fees, any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year for which the bonds will be issued;

(B) Determine the actual total amount of principal and interest to be paid in each fiscal year for all outstanding general obligation bonds (less the allocable portion of principal and interest to be paid during the year on general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects) and such Treasury loans;

(C) Determine the amount of principal and interest to be paid during each fiscal year over the term of the proposed general obligation bond or such Treasury loan to be issued; and

(D) If in any 1 fiscal year the sum arrived at by adding subparagraphs (B) and (C) of this paragraph exceeds the amount determined under subparagraph (A) of this paragraph then the proposed general obligation bond or such Treasury loan in subparagraph (C) of this paragraph cannot be issued.

(c) Except as provided in subsection (f) of this section, the Council shall not approve any budget which would result in expenditures being made by the District government, during any fiscal year, in excess of all resources which the Mayor estimates will be available from all funds available to the District for such fiscal year. The budget shall identify any tax increases which shall be required in order to balance the budget as submitted. The Council shall be required to adopt such tax increases to the extent its budget is approved. For the purposes of this section, the Council shall use a federal payment amount not to exceed the amount authorized by Congress. In determining whether any such budget would result in expenditures so being made in excess of such resources, amounts included in the budget estimates of the District of Columbia courts in excess of the recommendations of the Council shall not be applicable.

(d) Except as provided in subsection (f) of this section, the Mayor shall not forward to the President for submission to Congress a budget which is not balanced according to the provision of subsection (c) of this section.

(e) Nothing in this act shall be construed as affecting the applicability to the District government of the provisions of §§ 1341, 1342, and 1349 to 1351 and subchapter II of Chapter 15 of Title 31, United States Code.

(f) In the case of a fiscal year which is a control year (as defined in § 47-393(4)):

(1) Subsection (c) of this section ~~(other than the fourth sentence)~~ and subsection (d) of this section shall not apply; and

(2) The Council may not approve, and the Mayor may not forward to the President, any budget which is not consistent with the financial plan and budget established for the fiscal year under subpart B of subchapter VII of chapter 3 of this title. (1973 Ed., § 47-228; Dec. 24, 1973, 87 Stat. 814, Pub. L. 93-198, title VI, § 603; Apr. 17, 1995, 109 Stat. 115, Pub. L. 104-8, § 202(f)(1); Aug. 6, 1996, 110 Stat. 1697, Pub. L. 104-184, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-204, 1-205, 1-227, 43-1615, 47-302, 47-306, 47-310, 47-317.5, 47-318, 47-321, 47-392.14, 47-398.1, and 47-398.2.

Effect of amendments. — Section 202(f)(1) of Pub. L. 104-8, 109 Stat. 115, added "Except as provided in subsection (f) of this section" to the beginning of (c) and (d); and added (f).

Public Law 104-184, inserted "any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing bonds issued for such purposes)" in (b)(1) and (b)(3)(A); in (b)(2), substituted the first occurrence of "obligations" for "and obligations" and inserted "and obligations incurred pursuant to general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects"; and inserted the parenthetical language in (b)(3).

References in text. — "This Act," referred to in subsections (a) and (e) of this section, is the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 87 Stat. 774, Pub. L. 93-198.

"Section 490(a)," referred to in (b)(1) and (b)(3)(A), is § 490(a) of the District of Columbia Self-Government and Governmental Reorganization Act approved December 24, 1973, 87 Stat. 774, Pub. L. 93-198 which is codified as § 47-334(a).

"Sections 201 and 202 of this Act," referred to in paragraph (2) of subsection (b) of this section, are §§ 201 and 202 of the Act of December 24, 1973, Pub. L. 93-198, codified in part as § 5-102.

"§§ 1341, 1342, and 1349 to 1351 and subchapter II of Chapter 15 of Title 31, United States Code," referred to in subsection (e) of this section, was substituted for "§ 3679 of the Revised Statutes of the United States (§ 665 of Title 31, United States Code), the so-called Anti-Deficiency Act" on authority of § 4(b) of Pub. L. 97-258, approved September 13, 1982.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Borrowing of funds for arena preconstruction activities. — For provisions permitting a designated authority to borrow

funds for preconstruction activities relating to Gallery Place Sports Arena, see § 47-398.1.

Revenues as security for arena construction borrowing. — For provisions permitting certain District revenues to be pledged as security for borrowing for preconstruction activities relating to Gallery Place Sports Arena, see § 47-398.2.

Substantive deauthorization by Council can halt funded project during current fiscal year only if implemented by a supplemental budget request act followed by a Congressional supplemental appropriations act rescinding or transferring appropriations for the deauthorized program. *Convention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 441 A.2d 889 (1981).

Mayor required to reduce funding below level of appropriations. — Under §§ 47-301(a)(1) and 47-310(a)(9), and subsection (d) of this section, the Mayor not only has the authority to reduce funding below the level of appropriations in order to balance the budget, but is required to do so. *Hazel v. Barry*, App. D.C., 580 A.2d 110 (1990).

Mayor cannot unilaterally reduce the Board of Education's budget. — The Mayor cannot unilaterally reduce the Board of Education's budget under the Self-Government Act, specifically D.C. Code §§ 47-301, 47-310, 47-312(2), and subsections (c) and (d) of this section, the federal Anti-Deficiency Act or the D.C. Appropriations Act. *Barry v. Bush*, App. D.C., 581 A.2d 308 (1990).

Cited in *McClough v. United States*, App. D.C., 520 A.2d 285 (1987); *Atchison v. District of Columbia*, App. D.C., 585 A.2d 150 (1991); *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991); *American Fed'n of Gov't Employees v. District of Columbia*, 120 WLR 2533 (Super. Ct. 1992); *District of Columbia v. American Fed'n of Gov't Employees*, App. D.C., 619 A.2d 77 (1993), cert. denied, 510 U.S. 933, 114 S. Ct. 347, 126 L. Ed. 2d 312 (1993); *United States v. Shuler*, 123 WLR 693 (Super. Ct. 1995).

§§ 47-314 to 47-317. Office of Financial Management established; duties and responsibilities of Assistant City Administrator for Financial Management and Treasurer; transfer of powers, duties and functions to Treasurer; transfer of resources to Office.

Repealed effective October 27, 1995. April 17, 1995, 109 Stat. 97, Pub. L. 104-8, § 302(c).

Legislative history of Law 3-138. — Law 3-138, the “Financial Management Responsibility Act of 1980,” was introduced in Council and assigned Bill No. 3-303 which was referred to the Committee on Government Operation and the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 29, 1980 and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-259 and transmitted to both Houses of Congress for its review.

Repeal of §§ 47-314 through 47-317. — Section 302(c) of Pub. L. 104-8, 109 Stat. 148, April 17, 1995, provided that effective upon the appointment of the Chief Financial Officer of the District of Columbia under § 47-317.1, D.C.

Law 3-138 which enacted §§ 47-314 through 47-317 are repealed. Upon the appointment of a Chief Financial Officer of the District of Columbia pursuant to Mayor’s Order 95-124, effective October 27, 1995, §§ 47-314 through 47-317 were repealed.

Deputy Mayor for Office of Financial Management established. — See Mayor’s Order 83-19, January 3, 1983.

Establishment of Office of District of Columbia Controller. — See Mayor’s Order 89-243, October 23, 1989.

Establishment of Office of Treasurer. — See Mayor’s Order 89-244, October 23, 1989.

Establishment of Office of Financial Information Services. — See Mayor’s Order 89-245, October 23, 1989.

Subchapter I-A. Chief Financial Officer of the District of Columbia.

§ 47-317.1. Establishment of office [Charter Provision].

(a) *In general.* — There is hereby established within the executive branch of the government of the District of Columbia an Office of the Chief Financial Officer of the District of Columbia (hereafter referred to as the “Office”), which shall be headed by the Chief Financial Officer of the District of Columbia (hereafter referred to as the “Chief Financial Officer”).

(b) *Office of the Treasurer.* — The Office shall include the Office of the Treasurer, which shall be headed by the Treasurer of the District of Columbia, who shall be appointed by the Chief Financial Officer and subject to the Chief Financial Officer’s direction and control.

(c) *Transfer of other offices.* — Effective with the appointment of the first Chief Financial Officer under § 47-317.2, the functions and personnel of the following offices are transferred to the Office:

- (1) The Controller of the District of Columbia;
- (2) The Office of the Budget;
- (3) The Office of Financial Information Services; and
- (4) The Department of Finance and Revenue.

(d) *Service of heads of other offices.* —

(1) *Office heads appointed by Mayor.* — With respect to the head of the Office of the Budget and the head of the Department of Finance and Revenue:

(A) The Mayor shall appoint such individuals with the advice and consent of the Council, subject to the approval of the Authority during a control year; and

(B) During a control year, the Authority may remove such individuals from office for cause, after consultation with the Mayor.

(2) *Office heads appointed by Chief Financial Officer.* — With respect to the Controller of the District of Columbia and the head of the Office of Financial Information Services:

(A) The Chief Financial Officer shall appoint such individuals subject to the approval of the Mayor; and

(B) The Chief Financial Officer may remove such individuals from office for cause, after consultation with the Mayor. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(a), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Charter provisions. — This section of the D.C. Code is § 424(a) of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Section references. — This section is referred to in §§ 47-391.1 and 47-1303.4.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-317.2. Chief Financial Officer — Appointment [Charter Provision].

(a) *In general.* —

(1) *Control year.* — During a control year, the Chief Financial Officer shall be appointed by the Mayor as follows:

(A) Prior to the appointment of the Chief Financial Officer, the Authority may submit recommendations for the appointment to the Mayor.

(B) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(C) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under subparagraph (B) of this paragraph, the Mayor shall notify the Authority of the nomination.

(D) The nomination shall be effective subject to approval by a majority vote of the Authority.

(2) *Other years.* — During a year other than a control year, the Chief Financial Officer shall be appointed by the Mayor with the advice and consent of the Council. Prior to appointment, the Authority may submit recommendations for the appointment.

(b) *Removal.* —

(1) *Control year.* — During a control year, the Chief Financial Officer may be removed for cause by the Authority or by the Mayor with the approval of the Authority.

(2) *Other years.* — During a year other than a control year, the Chief Financial Officer shall serve at the pleasure of the Mayor, except that the Chief Financial Officer may only be removed for cause.

(c) *Salary.* — The Chief Financial Officer shall be paid at an annual rate determined by the Mayor, except that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(b), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Charter provisions. — This section of the D.C. Code is § 424(b) of the District Charter as enacted by Title IV of the District of Columbia Self Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Section references. — This section is referred to in § 47-191.1.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-317.3. Same — Functions during control year [Charter Provision].

During a control year, the Chief Financial Officer shall have the following duties:

(1) Preparing the financial plan and budget for the use of the Mayor for purposes of subpart B of subchapter VII of Chapter 3 of this title;

(2) Preparing the budgets of the District of Columbia for the year for the use of the Mayor for purposes of subpart D of subchapter VII of Chapter 3 of this title;

(3) Assuring that all financial information presented by the Mayor is presented in a manner, and is otherwise consistent with, the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(4) Implementing appropriate procedures and instituting such programs, systems, and personnel policies within the Officer's authority, to ensure that budget, accounting and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis;

(5) With the approval of the Authority, preparing and submitting to the Mayor and the Council:

(A) Annual estimates of all revenues of the District of Columbia (without regard to the source of such revenues), including proposed revenues, which shall be binding on the Mayor and the Council for purposes of preparing and submitting the budget of the District government for the year under subpart D of subchapter VII of Chapter 3 of this title, except that the Mayor and the Council may prepare the budget based on estimates of revenues which are lower than those prepared by the Chief Financial Officer; and

(B) Quarterly re-estimates of the revenues of the District of Columbia during the year.

(6) Supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources, and to ensure that appropriations are not exceeded.

(7) Maintaining systems of accounting and internal control designed to provide -

(A) Full disclosure of the financial impact of the activities of the District government;

(B) Adequate financial information needed by the District government for management purposes;

(C) Effective control over, and accountability for, all funds, property, and other assets of the District of Columbia; and

(D) Reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget.

(8) Submitting to the Council a financial statement of the District government, containing such details and at such times as the Council may specify;

(9) Supervising and assuming responsibility for the assessment of all property subject to assessment and special assessments within the corporate limits of the District of Columbia for taxation, preparing tax maps, and providing such notice of taxes and special assessments (as may be required by law);

(10) Supervising and assuming responsibility for the levying and collection of all taxes, special assessments, licensing fees, and other revenues of the District of Columbia (as may be required by law), and receiving all amounts paid to the District of Columbia from any source (including the Authority);

(11) Maintaining custody of all public funds belonging to or under the control of the District government (or any department or agency of the District government), and depositing all amounts paid in such depositories and under such terms and conditions as may be designated by the Council or the Authority;

(12) Maintaining custody of all investment and invested funds of the District government or in possession of the District government in a fiduciary capacity, and maintaining the safekeeping of all bonds and notes of the District government and the receipt and delivery of District government bonds and notes for transfer, registration, or exchange;

(13) Apportioning the total of all appropriations and funds made available during the year for obligation so as to prevent obligation or expenditure in a manner which would result in a deficiency or a need for supplemental appropriations during the year, and (with respect to appropriations and funds available for an indefinite period and all authorizations to create obligations by contract in advance of appropriations) apportioning the total of such appropriations, funds, or authorizations in the most effective and economical manner;

(14) Certifying all contracts (whether directly or through delegation) prior to execution as to the availability of funds to meet the obligations expected to be incurred by the District government under such contracts during the year;

(15) Prescribing the forms of receipts, vouchers, bills, and claims to be used by all agencies, offices, and instrumentalities of the District government;

(16) Certifying and approving prior to payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government, and determining the regularity, legality, and correctness of such bills, invoices, payrolls, claims, demands, or charges; and

(17) In coordination with the Inspector General of the District of Columbia, performing internal audits of accounts and operations and records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the

departments and agencies of the District government. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(c), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Section references. — This section is referred to in §§ 47-317.5 and 47-391.1.

Charter provisions. — This section of the D.C. Code is § 424(c) of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the

District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

References in text. — “Part D” referred to in (2) and (5)(A), is part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 785, Pub. L. 93-198, which consists of §§ 441 through 456 of the Act, codified as §§ 1-1130, 31-104, 47-101, 47-117, 47-130, 47-231 to 47-235, 47-301 to 47-305, 47-310 and 47-312.

The “District of Columbia Financial Responsibility and Management Assistance Act of 1995”, referred to in (3), is Pub. L. 104-8, 109 Stat. 97.

Delegation of Authority Under D.C. Act 11-404, the “General Obligation Bond Act of 1996.” — See Mayor’s Order 96-146, October 7, 1996 (43 DCR 5671).

§ 47-317.3a. Same — Powers during control periods.

(a) Notwithstanding any other provision of law, during any control period in effect under subpart B of subchapter VII of Chapter 3 of this title the following shall apply:

(1) The heads and all personnel of the following offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

- (A) The Office of the Treasurer;
- (B) The Controller of the District of Columbia;
- (C) The Office of the Budget;
- (D) The Office of Financial Information Services; and

(E) The Department of Finance and Revenue. The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to § 47-391.1, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(2) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for each fiscal year occurring during a control period in effect under subpart B of subchapter VII of Chapter 3 of this title, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall

be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to §§ 47-304 and 47-313(c), without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates. (Sept. 9, 1996, 110 Stat. 2375, Pub. L. 104-194, § 142; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Section 141 of Pub. Law 104-194, 110 Stat. 2375, added this section.

References in text. — “Part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act,” referred to in (a)(2), is Part D of Title IV of the Act of December 24, 1973, 87 Stat. 774, Pub. L. 93-198 which is composed of §§ 441 through 456 of the act.

Powers of Chief Financial Officer for Fiscal Years ending September 30, 1996 and September 30, 1997. — Section 152 of Pub. L. 104-134, 110 Stat. 1321 [220], provided that “Notwithstanding any other provision of law, for the fiscal years ending September 30, 1996 and September 30, 1997 —

“(a) the heads and all personnel of the following offices, together with all other District of Columbia executive branch accounting, budget, and financial management personnel, shall be approved by, and shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

“The Office of the Treasurer.

“The Controller of the District of Columbia.

“The Office of the Budget.

“The Office of Financial Information Services.

“The Department of Finance and Revenue.

“The District of Columbia Financial Responsibility Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

“(b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1993, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for fiscal years 1996, 1997 and 1998, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of such Act, without revision but subject to recommendations. Notwithstanding any other provisions of such Act, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.”

§ 47-317.4. Same — Functions during all years [Charter Provision].

At all times, the Chief Financial Officer shall have the following duties:

(1) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency);

(2) Administering all borrowing programs of the District government for the issuance of long-term and short-term indebtedness;

(3) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts;

(4) Administering the centralized District government payroll and retirement systems;

(5) Governing the accounting policies and systems applicable to the District government;

(6) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government; and

(7) Not later than 120 days after the end of each fiscal year (beginning with fiscal year 1995), preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under § 47-310(a)(4). (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(d), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Charter provisions. — This section of the D.C. Code is § 424(d) of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Section references. — This section is referred to in §§ 47-317.5 and 47-391.1.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-317.5. Functions of Treasurer [Charter Provision].

At all times, the Treasurer shall have the following duties:

(1) Assisting the Chief Financial Officer in reporting revenues received by the District government, including submitting annual and quarterly reports concerning the cash position of the District government not later than 60 days after the last day of the quarter (or year) involved. Such reports shall include:

(A) Comparative reports of revenue and other receipts by source, including tax, nontax, and Federal revenues, grants and reimbursements, capital program loans, and advances. Each source shall be broken down into specific components.

(B) Statements of the cash flow of the District government for the preceding quarter or year, including receipts, disbursements, net changes in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment. Such statements shall reflect the actual, planned, better or worse dollar amounts and the percentage change with respect to the current quarter, year-to-date, and fiscal year;

(C) Quarterly cash flow forecast for the quarter or year involved, reflecting receipts, disbursements, net change in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment with respect to the actual dollar amounts for the quarter or year, and projected dollar amounts for each of the 3 succeeding quarters;

(D) Monthly reports reflecting a detailed summary analysis of all District of Columbia government investments, including, but not limited to:

(i) The total of long-term and short-term investments;

(ii) A detailed summary analysis of investments by type and amount, including purchases, sales (maturities), and interest;

(iii) An analysis of investment portfolio mix by type and amount, including liquidity, quality/risk of each security, and similar information;

(iv) An analysis of investment strategy, including near-term strategic plans and projects of investment activity, as well as forecasts of future investment strategies based on anticipated market conditions, and similar information; and

(v) An analysis of cash utilization, including:

(I) Comparisons of budgeted percentages of total cash to be invested with actual percentages of cash invested and the dollar amounts;

(II) Comparisons of the next return on invested cash expressed in percentages (yield) with comparable market indicators and established District of Columbia government yield objectives; and

(III) Comparisons of estimated dollar return against actual dollar yield; and

(E) Monthly reports reflecting a detailed summary analysis of long-term and short-term borrowings inclusive of debt as authorized by § 47-313, in the current fiscal year and the amount of debt for each succeeding fiscal year not to exceed 5 years; all such reports shall reflect:

(i) The amount of debt outstanding by type of instrument;

(ii) The amount of authorized and unissued debt, including availability of short-term lines of credit, United States Treasury borrowings, and similar information;

(iii) A maturity schedule of the debt;

(iv) The rate of interest payable upon the debt; and

(v) The amount of debt service requirements and related debt service reserves; and

(2) Such other functions assigned to the Chief Financial Officer under § 47-317.3 or § 47-317.4 as the Chief Financial Officer may delegate. (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(e), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Charter provisions. — This section of the D.C. Code is § 424(e) of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Section references. — This section is referred to in § 47-391.1.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-317.6. Definitions [Charter Provision].

In this subchapter:

(1) The term “Authority” means the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a);

(2) The term “control year” has the meaning given such term under § 47-393(4); and

(3) The term “District government” has the meaning given such term under § 47-393(5). (Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(f), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a).)

Charter provisions. — This section of the D.C. Code is § 424(f) of the District Charter as enacted by Title IV of the District of Columbia Self Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self Government and Governmental Reorganization Act is set out in its entirety in Volume 1 beginning at page 173; § 424 of the Act appears in the supplement to Volume 1.

Section references. — This section is referred to in § 47-391.1.

Effect of amendments. — Section 302(a) of Pub. L. 104-8, 109 Stat. 142, added this section.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Subchapter I-B. Financial Accountability and Management.

§ 47-318. Definitions.

For the purposes of this subchapter, the term:

(1) “Budget gap” means the difference between estimated expenditures and estimated revenues.

(2) “Budget modification” means a reexamination of all major elements of the current year budget, and shall contain for the current year budget all elements of the multiyear plan listed in paragraph (4) of this section.

(3) “Gap-closing action” means any action designed to eliminate the budget gap. Gap-closing actions include increases in current revenue bases and rates; new taxes, fees, charges, fines, and penalties; expenditure reductions associated with lower service levels; and productivity improvements that yield expenditure reductions without a decrease in service levels. Gap-closing actions must be proposed in the fiscal year prior to their implementation.

(4) “Multiyear plan” means the costs and funding of services in the District over a 4-year period and shall be based on the actual experience of the immediately preceding 3 fiscal years, on the approved current fiscal year budget, and on estimates for at least the 4 succeeding fiscal years. Pursuant to § 47-302, the multiyear plan shall include provisions identifying:

(A) Future cost implications of maintaining programs at currently authorized levels, including anticipated changes in wage, salary, and benefit levels;

(B) Future cost implications of all capital projects for which funds have already been authorized, including identification of the amount of already appropriated but unexpended capital project funds;

(C) Future cost implications of new, improved, or expanded programs and capital project commitments proposed for each of the succeeding 4 fiscal years;

(D) The effects of current and proposed capital projects on future operating budget requirements;

(E) Revenues and funds likely to be available from existing revenue sources at current rates or levels;

(F) The specific revenue and tax measures recommended for the forthcoming fiscal year and for the next following fiscal year necessary to balance revenues and expenditures;

(G) The actuarial status and anticipated costs and revenues of retirement systems covering District employees; and

(H) Total debt service payments in each fiscal year in which debt service payments must be made for all bonds which have been or will be issued, and all loans from the United States Treasury which have been or will be received, to finance the total cost on a full funding basis of all projects listed in the capital improvements plan prepared under § 47-303; and for each such fiscal year, the percentage relationship of the total debt service payments (with payments for issued and proposed bonds and loans from the United States Treasury, received or proposed, separately identified) to the bonding limitation for the current and forthcoming fiscal year as specified in § 47-313(b).

(5) "Multiyear plan modification" means a reexamination of all major elements of the multiyear plan, and shall contain all elements of the multiyear plan listed in paragraph (4) of this section. (Nov. 25, 1993, D.C. Law 10-64, § 2, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary amendment of section, see § 2 of the Financial Accountability and Management Act Budget Submission Date Emergency Amendment Act of 1995 (D.C. Act 11-15, February 28, 1995, 42 DCR 1166).

Legislative history of Law 10-64. — Law 10-64, the "Financial Accountability and Management Act of 1993," was introduced in Coun-

cil and assigned Bill No. 10-117, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 21, 1993, and September 21, 1993, respectively. Signed by the Mayor on October 6, 1993, it was assigned Act No. 10-119 and transmitted to both Houses of Congress for its review. D.C. Law 10-64 became effective on November 25, 1993.

§ 47-318.1. Mayoral budget submissions required; accounting of expenditures.

In the annual budget submission, the Mayor shall provide the Council with an agency-by-agency accounting of expenditures for all years of the multiyear plan and multiyear plan modifications submitted with the Mayor's annual budget and budget modifications. This accounting shall be of agency expenditures at the agency level, with such additional detail as the Council may request. (Nov. 25, 1993, D.C. Law 10-64, § 3, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-64. — See note to § 47-318.

§ 47-318.2. Same — Budget request and multiyear plan.

(a) The Mayor shall provide the Council with both a budget request and a multiyear plan no earlier than February 1 and no later than February 8 of each calendar year commencing with 1994.

(b) The Mayor shall provide the Council with both a budget modification and a multiyear plan modification 3 times each fiscal year: the first set no earlier than June 1 and no later than June 15, the second set no earlier than November 8 and no later than November 15, and the third set no earlier than February 1 and no later than February 8.

(c) The Council shall adopt each of the budget and multiyear plan modifications no more than 28 days after official submission to the Council. Any modification on which the Council does not act within 28 days shall be deemed approved.

(d) Notwithstanding subsection (b) of this section, for fiscal year 1994, the Mayor shall provide the Council with the first budget modification and first multiyear plan no earlier than November 8 and no later than November 15. (Nov. 25, 1993, D.C. Law 10-64, § 4, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-64. — See note to § 47-318.

§ 47-318.3. Same — Gap-closing actions.

(a) In the annual budget request, the Mayor shall provide the Council with all gap-closing actions for the upcoming fiscal year budget. Gap-closing actions include increases in current revenue bases and rates; new taxes, fees, charges, fines, forfeitures, and penalties; expenditure reductions associated with lower service levels; and productivity improvements that yield expenditure reductions without a decrease in service levels.

(b) If the Council rejects gap-closing actions of the Mayor either in the annual budget request or any budget modification, it must substitute 1 or more of its own gap-closing actions to make up the amount of the rejected gap-closing actions.

(c) Within 30 days after the end of each month, the Mayor shall provide the Council with a progress report on those gap-closing actions that the Council designates for monitoring.

(d) The Mayor or Mayor's designee(s) shall appear before a hearing of the Committee of the Whole every 2 months to respond to questions regarding gap-closing actions.

(e) The Mayor shall replace, in the Mayor's budget modification submission, any gap-closing actions that the Council determines to be in serious danger of failure with gap-closing actions more likely to occur. However, the Mayor may not replace gap-closing actions approved by the Council in any budget adoption process merely because the Mayor does not support such actions.

(f) If the Mayor determines that the budget gap has increased from the submission of the Mayor's budget request to the submission of the first budget modification, or from the submission of 1 budget modification to the submission of another, the Mayor must increase the aggregate dollar value of the gap-closing actions to cover the difference. If the Mayor determines that the budget gap has decreased from the submission of the Mayor's budget request to the submission of the first budget modification, or from the submission of 1

budget modification to the submission of another, the Mayor may decrease the aggregate dollar value of the gap-closing actions to eliminate the difference. (Nov. 25, 1993, D.C. Law 10-64, § 5, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-64. — See note to § 47-318.

§ 47-318.4. Same — Deadline for gap-closing submission.

The Mayor shall submit to the Council, no later than October 8, 1993, all explicit actions necessary to close the FY 1994 budget gap previously identified by the Mayor, as well as the dollar value of each action. (Nov. 25, 1993, D.C. Law 10-64, § 6, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-64. — See note to § 47-318.

§ 47-318.5. Same — Cash flow statements.

The Mayor shall submit to the Council, beginning October 1, 1993, and every month thereafter, monthly consolidated cash flow statements in the same format as currently prepared by the Office of the D.C. Treasurer, except that the statement submitted to the Council shall contain an explanation of all changes in cash flows that have occurred since the previous month's report. (Nov. 25, 1993, D.C. Law 10-64, § 7, 40 DCR 7347; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-64. — See note to § 47-318.

Subchapter I-C. Monitoring Committee.

§ 47-319.1. Establishment of the Initiative Implementation Monitoring Committee; duties.

(a) There is established an Initiative Implementation Monitoring Committee ("Committee").

(b) The Committee shall advise the Mayor and the Council on the status of the implementation of the initiatives contained in the District's Revised Fiscal Year 1996 Budget Request Act and the July 1995 recommendations of the Financial Responsibility and Management Assistance Authority.

(c) The Committee is authorized to meet weekly to review weekly reports on the implementation of budget initiatives from subordinate agency heads and the budget officers of independent agencies to facilitate the monitoring of spending initiatives. (Jan. 26, 1996, D.C. Law 11-78, § 901, 42 DCR 6181; Mar. 5, 1996, D.C. Law 11-98, § 701, 43 DCR 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — Sections 901 through 904 of D.C. Law 11-78 added this subchapter.

Section 1601(b) of D.C. Law 11-78 provided that the act shall expire after the 225th day of its having taken effect or on the effective date of the Budget Support Act of 1995, whichever occurs first.

Emergency act amendments. — For temporary addition of subchapter, see §§ 901 through 904 of the Budget Support Emergency Act of 1995 (D.C. Act 11-137, August 14, 1995, 42 DCR 4706), §§ 901 through 904 of the Budget Support Legislative Review Emergency Act of 1995 (D.C. Act 11-154, November 9, 1995, 42 DCR 6569), and §§ 701 through 704 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

Legislative history of Law 11-78. — Law 11-78, the “Budget Support Temporary Act of

1995,” was introduced in Council and assigned Bill No. 11-421. The Bill was adopted on first and second readings on July 29, 1995, and October 10, 1995, respectively. Signed by the Mayor on October 31, 1995, it was assigned Act No. 11-150 and transmitted to both Houses of Congress for its review. D.C. Law 11-78 became effective on January 26, 1996.

Legislative history of Law 11-98. — Law 11-98, the “Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-440 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 26, 1995, it was assigned Act No. 11-181 and transmitted to both Houses of Congress for its review. D.C. Law 11-98 became effective on March 5, 1996.

§ 47-319.2. Composition.

(a) The Committee shall consist of 9 members as follows:

(1) City Administrator or his or her designee, provided that the designee shall have the full authority of the City Administrator;

(2) Budget Director for the Council;

(3) Inspector General (“IG”) or his or her designee, provided that the designee shall have the full authority of the IG;

(4) Chief Financial Officer (“CFO”) or his or her designee, provided that the designee shall have the full authority of the CFO;

(5) Director of the Office of Personnel (“Director”) or his or her designee, provided that the designee shall have the full authority of the Director;

(6) Auditor or his or her designee, provided that the designee shall have the full authority of the Auditor;

(7) Chief Information Officer;

(8) One person designated by the Chairman of the Council Committee of the Whole; and

(9) One person designated by the Chairman of the Council Committee on Government Operations.

(b) The City Administrator shall serve as the chair of the Committee.

(c) Four members of the Committee shall constitute a quorum. (Jan. 26, 1996, D.C. Law 11-78, § 902, 42 DCR 6181; Mar. 5, 1996, D.C. Law 11-98, § 702, 42 DCR 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-319.1.

Legislative history of Law 11-78. — See note to § 47-319.1.

Legislative history of Law 11-98. — See note to § 47-319.1.

§ 47-319.3. **Compensation.**

Members of the Committee shall receive no compensation. (Jan. 26, 1996, D.C. Law 11-78, § 903, 42 DCR 6181; Mar. 5, 1996, D.C. Law 11-98, § 703, 43 DCR 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-319.1.

Legislative history of Law 11-98. — See note to § 47-319.1.

Legislative history of Law 11-78. — See note to § 47-319.1.

§ 47-319.4. **Reports.**

The Committee shall submit to the Council reports on the status of the Fiscal Year 1996 budget initiatives each month or as requested by the Council. (Jan. 26, 1996, D.C. Law 11-78, § 904, 42 DCR 6181; Mar. 5, 1996, D.C. Law 11-98, § 704, 43 DCR 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-319.1.

Legislative history of Law 11-98. — See note to § 47-319.1.

Legislative history of Law 11-78. — See note to § 47-319.1.

Subchapter II. Borrowing.

§ 47-321. **General obligation bonds — Authority to issue; right to redeem [Charter Provision].**

(a)(1) Subject to the limitations in § 47-313(b), the District may incur indebtedness by issuing general obligation bonds to refund indebtedness of the District at any time outstanding, to finance the outstanding accumulated operating deficit of the general fund of the District of \$331,589,000, existing as of September 30, 1990, and to provide for the payment of the cost of acquiring or undertaking its various capital projects. Such bonds shall bear interest, payable on such dates, at such rate or rates and at such maturities as the Mayor, subject to the provisions of § 47-322, may from time to time determine to be necessary to make such bonds marketable.

(2) The District may not issue any general obligation bonds to finance the operating deficit described in paragraph (1) of this subsection after September 30, 1992.

(b) The District may reserve the right to redeem any or all of its obligations before maturity in such manner and at such price as may be fixed by the Mayor prior to the issuance of such obligations. (1973 Ed., § 47-241; Dec. 24, 1973, 87 Stat. 804, Pub. L. 93-198, title IV, § 461; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 4; Aug. 17, 1991, 105 Stat. 540, Pub. L. 102-106, § 4.)

Charter provisions. — This section of the D.C. Code is § 461 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-

Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Cross references. — As to payment of District share of costs of adopted regional system from proceeds of sale of general obligation bonds, see § 1-2455.

Section references. — This section is referred to in §§ 9-402, 47-322, 47-325, 47-326.1, 47-331, 47-331.1, 47-331.2, 47-341, and 47-392.24.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Interim loan authority. — Section 723 of the Act of December 24, 1973, 87 Stat. 821, Pub. L. 93-198, as amended, provides: “(a) The Mayor is authorized to accept loans for the District from the Treasury of the United States, and the Secretary is authorized to lend to the Mayor, such sums as the Mayor may determine are required to complete capital projects for which construction and construction services funds have been authorized or appropriated, as the case may be, by Congress prior to October 1, 1982, or the date of the enactment of the appropriation Act for the fiscal year ending September 30, 1983, for the government of the District of Columbia, whichever is later. In addition, such loans may include funds to pay the District’s share of the cost of the adopted regional system specified in the National Capital Transportation Act of 1969.

(b) Loans advanced pursuant to this section during any six-month period shall be at a rate of interest determined by the Secretary as of the beginning of such period, which, in his judgment, would reflect the cost of money to the Treasury for borrowing at a maturity approximately equal to the period of time the loan is outstanding.

(c) Subject to the limitations contained in section 603 (b), there is authorized to be appropriated to make loans under this section the sum of \$155,000,000 for the fiscal year ending on September 30, 1982, the sum of \$155,000,000 for the fiscal year ending on September 30, 1983, and the sum of \$155,000,000 for the fiscal year ending on September 30, 1984.

(d) The authority contained in this section to make loans shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.” (Amended, Oct. 13, 1977, 91 Stat. 1155, Pub. L. 95-131, § 1; Dec. 28, 1979, 93 Stat. 1232, Pub. L. 96-160, § 1; Aug. 13, 1981, 95 Stat. 441, Pub. L.

97-35, § 401; Aug. 14, 1981, 95 Stat. 944, Pub. L. 97-40, § 1.)

General obligation bonds authorized. — D.C. Law 5-115, effective September 26, 1984, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 6-60, effective November 19, 1985, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 6-214, effective February 28, 1987, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 7-147, effective September 21, 1988, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 9-251, the “General Obligation Bond Act of 1992,” effective March 25, 1993, as amended by the General Obligation Bond Act of 1992, D.C. Act 9-397, Emergency Amendment Act of 1993 (D.C. Act 10-16, March 31, 1993, 40 DCR 2335), and as amended by § 2 of D.C. Law 10-8, the General Obligation Bond Act of 1992, D.C. Law 9-251, Temporary Amendment Act of 1993, effective July 23, 1993 (40 DCR 3559), authorized the issuance of general obligation bonds of the District of Columbia for the purposes of financing certain capital indebtedness of the District of Columbia.

Section 3(b) of D.C. Law 10-8 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the General Obligation Bond Act of 1992, D.C. Law 9-251, Amendment Act of 1993, whichever occurs first.

Council’s approval of issuance of general obligation bonds for capital projects. — Pursuant to Resolution 6-92, the “Capital Projects Bonds Issuance Authorization Resolution of 1985,” effective April 16, 1985, the Council approved the issuance of general obligation bonds for certain capital projects.

General Obligation Bond Issuance 1991A Authorization Resolution of 1991. — Pursuant to Resolution 9-39, effective May 24, 1991, the Council approved the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

General Obligation Bond 1996 Issuance Authorization Emergency Resolution of 1996. — Pursuant to Resolution 11-545, effective October 1, 1996, the Council approved, on

an emergency basis, authorization for the borrowing of funds by the Mayor through the issuance and sale of general obligation bonds.

Delegation of contracting authority. — See Mayor's Order 91-92, June 7, 1991.

Delegation of Authority Under D.C. Law 9-251, the "General Obligation Bond Act of 1992." — See Mayor's Order 93-45, April 22, 1993.

Delegation of Authority Under D.C. Act 11-404, the "General Obligation Bond Act of 1996." — See Mayor's Order 96-146, October 7, 1996 (43 DCR 5671).

Definitions applicable. — The definitions in § 1-202 apply to this subchapter.

Cited in Convention Ctr. Referendum Comm. v. District of Columbia Bd. of Elections & Ethics, App. D.C., 441 A.2d 889 (1981).

§ 47-322. Same — Authorization act — Contents [Charter Provision].

(a) The Council may by act authorize the issuance of general obligation bonds for the purposes specified in § 47-321. Such an act shall contain, at least, provisions:

- (1) Briefly describing each project to be financed by the act;
- (2) Identifying the act authorizing each such project;
- (3) Setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such project;
- (4) Setting forth the maximum rate of interest to be paid on such indebtedness;

(5) Setting forth the maximum allowable maturity for the issue and the maximum debt service payable in any year; and

(6) Setting forth, in the event that the Council determines in its discretion to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the date of such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election.

(b) Any election held on the question of issuing general obligation bonds must be held before the act authorizing the issuance of such bonds is transmitted to the Speaker of the House of Representatives and the President of the Senate pursuant to § 1-233(c).

(c) Notwithstanding § 1-233(c)(1), the provisions required by paragraph (6) of subsection (a) of this section to be included in any act authorizing the issuance of general obligation bonds shall take effect on the date of the enactment of such act. (1973, Ed., § 47-242; Dec. 24, 1973, 87 Stat. 804, Pub. L. 93-198, title IV, § 462; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(4); Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 5.)

Charter provisions. — This section of the D.C. Code is § 462 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 1-233, 47-321, and 47-323.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Govern-

mental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that "§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

§ 47-323. Same — Same — Publication; notice [Charter Provision].

(a) After each act of the Council of the District of Columbia under § 47-322 (a) authorizing the issuance of general obligation bonds has taken effect, the Mayor shall publish such act at least once in at least 1 newspaper of general circulation within the District together with a notice that such act has taken effect. Each such notice shall be in substantially the following form:

NOTICE

The following act of the Council of the District of Columbia (published with this notice) authorizing the issuance of general obligation bonds has taken effect. As provided in the District of Columbia Self-Government and Governmental Reorganization Act, the time within which a suit, action, or proceeding questioning the validity of such bonds may be commenced expires at the end of the 20-day period beginning on the date of the first publication of this notice.

....., Mayor.

(b) Neither the failure to publish the notice provided for in subsection (a) of this section nor any error in any publication of such notice shall impair the effectiveness of the act of the Council authorizing the issuance of such bonds or the validity of any bond issued pursuant to such act. (1973 Ed., § 47-243; Dec. 24, 1973, 87 Stat. 804, Pub. L. 93-198, title IV, § 463; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 6.)

Charter provisions. — This section of the D.C. Code is § 463 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in § 47-324.

References in text. — The District of Columbia Self-Government and Governmental Reorganization Act, referred to in this section, is 87 Stat. 774, Pub. L. 93-198, approved December 24, 1973.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-324. Same — Presumptions; time period to contest [Charter Provision].

(a) At the end of the 20-day period beginning on the date of the first publication pursuant to the notice in § 47-323(a) that an act authorizing the issuance of general obligation bonds has taken effect:

(1) Any recital or statement of fact contained in such act or in the preamble or title of such act shall be deemed to be true for the purpose of determining the validity of the bonds authorized by such act, and the District and all others interested shall be estopped from denying any such recital or statement of fact; and

(2) Such act, and all proceedings in connection with the authorization of the issuance of such bonds including any election held on the question of

issuing such bonds, shall be deemed to have been duly and regularly taken, passed, and done by the District, in compliance with this Act and all other applicable laws, for the purpose of determining the validity of such act and proceedings; and no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of such act or proceedings except in a suit, action, or proceeding commenced before the end of such 20-day period.

(b) At the end of the 20-day period beginning on the date of the first publication pursuant to the notice in § 47-323(a) that an act authorizing the issuance of general obligation bonds has taken effect, no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of any general obligation bond issued pursuant to such act if:

(1) Such general obligation bond was purchased in good faith and for fair value; and

(2) Such general obligation bond contains substantially the following statement which shall bind the District of Columbia:

"It is hereby certified and recited that all conditions, acts, and things required by the District of Columbia Self-Government and Governmental Reorganization Act and other applicable laws to exist, to have happened, and to have been performed precedent to and in the issuance of this bond exist, have happened, and have been performed and that the issue of bonds, of which this is one, together with all other indebtedness of the District of Columbia, is within every debt and other limit prescribed by law." (1973 Ed., § 47-244; Dec. 24, 1973, 87 Stat. 805, Pub. L. 93-198, title IV, § 464; Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 7.)

Charter provisions. — This section of the D.C. Code is § 464 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that "§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

§ 47-325. Same — Issuance [Charter Provision].

(a) After an act of the Council authorizing the issuance of general obligation bonds under § 47-321(a) takes effect, the Mayor may issue such general obligation bonds as authorized by such act of the Council. An issue of general obligation bonds may be all or any part of the aggregate principal amount of bonds authorized by such act.

(b) The principal amount of the general obligation bonds of each issue shall be payable in annual installments beginning not more than 3 years after the date of such bonds and ending not more than 30 years after such date.

(c) The general obligation bonds of each issue shall be executed by the manual or facsimile signature of such officials as may be designated to sign such bonds by the act of the Council authorizing the issuance of the bonds, except that at least 1 such signature shall be manual. Coupons attached to the bonds shall be authenticated by the facsimile signature of the Mayor unless the Council provides otherwise. (1973 Ed., § 47-245; Dec. 24, 1973, 87 Stat. 805, Pub. L. 93-198, title IV, § 465; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(5); Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 8.)

Charter provisions. — This section of the D.C. Code is § 465 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-326. Same — Public or private sale [Charter Provision].

(a) Except as provided in subsection (b) of this section, general obligation bonds issued under this part shall be sold at public sale upon sealed proposals after publication of a notice of such sale at least once not less than 10 days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds published in the city of New York, (New York), and in 1 or more newspapers of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a downpayment a certified check or cashier's check for an amount equal to at least 2% of the par amount of general obligation bonds bid for, and the Mayor shall reserve the right to reject any and all bids.

(b) Any issue of general obligation bonds which is sold before October 1, 1995, and which is additionally secured by a security interest created in District revenues under § 47-326.1(a) may be sold at either a public sale under subsection (a) of this section or at a private sale on a negotiated basis in such manner as the Mayor may determine to be in the public interest. (1973 Ed., § 47-246; Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 466; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(6); Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 9; Oct. 12, 1984, 98 Stat. 1837, Pub. L. 98-473, § 131(a); Dec. 19, 1985, 99 Stat. 1185, Pub. L. 99-190, § 101(c); Oct. 30, 1986, 100 Stat. 3341-180, Pub. L. 99-591, § 131; Dec. 22, 1987, 101 Stat. 1329, Pub. L. 100-202, § 1(c); Nov. 21, 1989, 103 Stat. 1280, Pub. L. 101-168, § 129; Nov. 5, 1990, 104 Stat. 2237, Pub. L. 101-518, § 129; Oct. 1, 1991, 105 Stat. 569, Pub. L. 102-111, § 125; Oct. 5, 1992, 106 Stat. 1433, Pub. L. 102-382, § 125; Oct. 29, 1993, 107

Stat. 1347, Pub. L. 103-127, § 124; Sept. 30, 1994, 108 Stat. 2586, Pub. L. 103-334, § 124.)

Charter provisions. — This section of the D.C. Code is § 466 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Effect of amendments. — Public Law 100-202 substituted “1988” for “1987” in subsection (b).

References in text. — “This part,” referred to in the first sentence of subsection (a), refers to part E (comprising §§ 461 to 490) of title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 804-809, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Applicability of amendments. — Section 131(k) of Public Law 98-473 provided that amendments made by this section shall not be

applicable with respect to any law which was passed by the Council prior to the date of enactment of this act, and such laws are deemed valid, in accordance with the provisions thereof notwithstanding such amendments, and any previous act of the Council which had been disapproved by the Congress pursuant to section 602(c)(1) or section 602(c)(2) is deemed null and void. Public Law 98-473 was approved October 12, 1984.

Effective period of § 131 of Public Law 98-473. — Section 131(n) of Public Law 98-473 provided that the provisions of this section shall be effective hereafter without limitation as to fiscal year, notwithstanding any other provision of the joint resolution. Public Law 98-473 was approved October 12, 1984.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-326.1. Same — Creation of security interests in District revenues.

(a) An act of the Council authorizing the issuance of general obligation bonds under § 47-321(a) may create a security interest in any District revenues as additional security for the payment of the bonds authorized by such act.

(b) Any such act creating a security interest in District revenues may contain provisions (which may be part of the contract with the holders of such bonds):

(1) Describing the particular District revenues which are subject to such security interest;

(2) Creating a reasonably required debt service reserve fund or any other special fund;

(3) Authorizing the Mayor of the District to execute a trust indenture securing the bonds;

(4) Vesting in the trustee under such a trust indenture such properties, rights, powers, and duties in trust as may be necessary, convenient, or desirable;

(5) Authorizing the Mayor of the District to enter into and amend agreements concerning:

(A) The custody, collection, use, disposition, security, investment, and payment of the proceeds of the bonds and the District revenues which are subject to such security interest; and

(B) The doing of any act (or the refraining from doing any act) that the District would have the right to do in the absence of such an agreement;

(6) Prescribing the remedies of the holders of the bonds in the event of a default; and

(7) Authorizing the Mayor of the District to take any other actions in connection with the issuance, sale, delivery, security, and payment of the bonds.

(c) Notwithstanding Article 9 of Title 28, any security interest in District revenues created under subsection (a) of this section shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the District, whether or not such individual or legal entity has notice of such lien.

(d) The 4th sentence of § 47-304 shall not apply to any obligation or expenditure of any District revenues to secure any general obligation bond under subsection (a) of this section. (Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 10; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-304, 47-310, and 47-326.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Request for Congressional action. — Pursuant to § 501(a) of D.C. Law 10-188, the Council for the District of Columbia requested that Congress amend subsection (d), § 467(d) of the District of Columbia Self-Government and Governmental Reorganization Act, to read as follows:

“(d) The fourth sentence of § 47-304 shall not apply to any obligation or expenditure of any District revenues to secure any general obligation bond under subsection (a) of this section or any revenue bond or other obligation under subsection (a-1) of this section or for repair, maintenance, and capital improvements. Other operating obligations or expenditures shall not be exempt from the fourth sentence of § 47-304, except that if the operating obligations or expenditures are incurred prior to October 1, 1995, they shall be approved pursuant to the procedures set forth in § 47-304.1.”

§ 47-327. General obligation notes — Issuance; limitation on amount; renewal; due date [Charter Provision].

(a) In the absence of unappropriated revenues available to meet appropriations made pursuant to § 47-304, the Council may by act authorize the issuance of general obligation notes. The total amount of all such general obligation notes originally issued during a fiscal year shall not exceed 2% of the total appropriations for the District for such fiscal year.

(b) Any general obligation note issued under subsection (a) of this section, as authorized by an act of the Council, may be renewed. Any such note, including any renewal of such note, shall be due and payable not later than the last day of the fiscal year occurring immediately after the fiscal year during which the act authorizing the original issuance of such note takes effect.

(c) The 4th sentence of § 47-304 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any general obligation note issued under subsection (a) of this section. (1973 Ed., § 47-247; Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 471; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 11.)

Charter provisions. — This section of the D.C. Code is § 471 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 47-304, 47-331.1, 47-331.2 and 47-341.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

General obligation bonds authorized. — D.C. Law 5-115, effective September 26, 1984, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 6-60, effective November 19, 1985, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 8-35, effective October 13, 1989, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and

refunding certain capital indebtedness of the District of Columbia.

D.C. Law 8-217, the “General Obligation Bond Act of 1990,” effective March 6, 1991, authorized the issuance of general obligation bonds of the District of Columbia for the purposes of financing certain capital projects and of refunding certain capital indebtedness of the District of Columbia.

D.C. Law 9-46, the “General Fund Recovery Act of 1991,” effective August 17, 1991, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing the accumulated deficit of the District of Columbia. Section 401 of D.C. Law 9-46 provided that (a) Title I shall not apply during the fiscal year ending Sept. 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

(b) Title I shall not apply during the fiscal year ending Sept. 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District.

D.C. Law 9-83, the “General Obligation Bond Act of 1992,” effective March 20, 1992, authorized the issuance of general obligation bonds of the District of Columbia for the purposes of financing certain capital projects and of refunding certain capital indebtedness of the District of Columbia.

Delegation of authority under D.C. Law 8-217, the “General Obligation Bond Act of 1990.” — See Mayor’s Order 91-79, May 14, 1991.

Delegation of authority under D.C. Law 9-46, the “General Fund Recovery Act of 1991.” — See Mayor’s Order 91-147, October 4, 1991.

§ 47-328. Same — Revenue anticipation notes [Charter Provision].

(a) In anticipation of the collection or receipt of revenues for a fiscal year, the Council may by act authorize the issuance of general obligation notes for such fiscal year, to be known as revenue anticipation notes.

(b) The total amount of all revenue anticipation notes issued under subsection (a) of this section outstanding at any time during a fiscal year shall not

exceed 20% of the total anticipated revenue of the District for such fiscal year, as certified by the Mayor under this subsection. The Mayor shall certify, as of a date which occurs not more than 15 days before each original issuance of such revenue anticipation notes, the total anticipated revenue of the District for such fiscal year.

(c) Any revenue anticipation note issued under subsection (a) of this section may be renewed. Any such note, including any renewal of such note, shall be due and payable not later than the last day of the fiscal year during which the note was originally issued.

(d)(1) Notwithstanding § 1-233(c)(1), any act of the Council authorizing the issuance of revenue anticipation notes under subsection (a) of this section may take effect on the date of the enactment of such act.

(2) The 4th sentence of § 47-304 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any revenue anticipation note issued under subsection (a) of this section. (1973 Ed., § 47-248; Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 472; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 12.)

Charter provisions. — This section of the D.C. Code is § 472 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Cross references. — As to taxes not to be anticipated by sale or hypothecation, see § 1-310.

Section references. — This section is referred to in §§ 1-233, 47-304, 47-331.1, 47-331.2, and 47-341.

Emergency act amendments. — For temporary authorization, on an emergency basis, the issuance of District of Columbia general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for the fiscal year ending September 30, 1996, see § 2-15 and 17 of the Tax Revenue Anticipation Notes Emergency Act of 1996 (D.C. Act 11-301, July 15, 1996, 43 DCR 4169).

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal year 1984 authorized. — See D.C. Act 5-103, January 31, 1984, 31 DCR 518.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized. — See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

Tax revenue anticipation notes authorized. — D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December

14, 1990, and D.C. Law 9-46, the "General Fund Recovery Act of 1991," effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1990.

D.C. Law 9-46, the "General Fund Recovery Act of 1991," effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Section 401 of D.C. Law 9-46 provided that:

(a) Title I shall not apply during the fiscal year ending Sept. 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

(b) Title I shall not apply during the fiscal year ending Sept. 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District.

D.C. Act 10-227, effective April 22, 1994, authorized the issuance of District of Columbia general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for the fiscal year ending September 30, 1994.

D.C. Act 11-373, effective August 5, 1996, authorized the issuance of District of Columbia general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for the fiscal year ending September 30, 1996.

Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990." — See Mayor's Order 90-118, September 27, 1990.

Delegation of contracting authority. — See Mayor's Order 91-92, June 7, 1991.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991." — See Mayor's Order 91-147, October 4, 1991.

Delegation of Authority Pursuant to D.C. Act 10-227, the Tax Revenue Anticipation Notes Act of 1994. — See Mayor's Order 94-104, April 29, 1994 (41 DCR 2535).

Delegation of Authority Under D.C. Law 10-364, the "Second Tax Revenue Anticipations Notes Act of 1994." — See Mayor's Order 94-266, December 29, 1994.

Delegation of Authority Under D.C. Act 11-301, the "Tax Revenue Anticipation Notes Emergency Act of 1996." — See Mayor's Order 96-107, July 25, 1996 (43 DCR 4321).

§ 47-329. Same — Redemption [Charter Provision].

No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note. (1973 Ed., § 47-249; Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 473.)

Charter provisions. — This section of the D.C. Code is § 473 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

References in text. — "This part," referred to in this section, refers to part E (comprising of §§ 461 to 490) of title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 804-809, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that "§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

§ 47-330. Same — Sale [Charter Provision].

All notes issued pursuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising. (1973 Ed., § 47-250; Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 474.)

Charter provisions. — This section of the D.C. Code is § 474 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

References in text. — “This part,” referred to in this section, refers to part E (comprising §§ 461 to 490) of title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 804-809, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-331. Payment of bonds and notes; special tax [Charter Provision].

(a) Any act of the Council authorizing the issuance of general obligation bonds under § 47-321(a) shall provide for the annual levy of a special tax or charge, if the Council determines that such tax or charge is necessary. Such tax or charge shall be levied, without limitation as to rate or amount, in amounts which together with other District revenues available and applicable will be sufficient to pay the principal of and interest on such general obligation bonds as they become due and payable. Such tax or charge shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside in a separate debt service fund and irrevocably dedicated to the payment of such principal and interest.

(b) The Comptroller General of the United States shall make annual audits of the amounts set aside and deposited in each debt service fund pursuant to subsection (a) of this section. (1973 Ed., § 47-251; Dec. 24, 1973, 87 Stat. 807, Pub. L. 93-198, title IV, § 481; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 13.)

Charter provisions. — This section of the D.C. Code is § 481 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in § 47-331.2.

Severability of Public Law 93-198. — As

to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the

District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

Special tax requirement. — Section 6(e)(1) of D.C. Law 5-115 provided that in any real property tax year, if the amount expected to be on deposit in the special tax fund on the 1st day of the next succeeding real property tax year exceeds the greater of: (1) The earnings on the special tax fund for the current real property tax year; or (2) one-twelfth of the amount the Mayor certifies as required to pay the principal of and interest on the bonds and any additional bonds coming due in the next succeeding real property tax year, the Mayor shall cause the transfer of that excess amount to the general fund of the District and that amount shall be released from the lien on and security interest in the special tax revenue created under this section.

Section 6(e)(2) of D.C. Law 5-115 provided that on or before the date upon which the Mayor is required by law to submit to the Council proposed real property tax rates for a real property tax year of the District (but in no event later than the 1st day of that real property tax year), the Mayor shall certify to the Council the amount required in that real property tax year to pay the principal of and interest on the bonds and any additional bonds coming due for any reason during that real property tax year. The amount certified, less any funds then on deposit in the special tax fund after application of paragraph (1) of this section, shall be called the special tax requirement.

Section 6(f) of D.C. Law 5-115 provided that on or before the date upon which the Mayor is required by law to submit to the Council proposed tax rates for a real property tax year of the District (but in no event later than the 1st day of that real property tax year), the Mayor shall calculate and submit to the Council proposed real property special tax rates to be applied during the real property tax year to all real property subject to taxation in the District. The real property special tax rates shall be calculated to yield the special tax requirement, as that amount is certified by the Mayor pursuant to § 6(e).

Tax revenue anticipation notes authorized. — D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987, authorized the issuance of general obligation tax revenue anticipation notes of the District of

Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December 14, 1990, and D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1990.

D.C. Law 9-46, the "General Fund Recovery Act of 1991," effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Section 401 of D.C. Law 9-46 provided that:

(a) Title I shall not apply during the fiscal year ending Sept. 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

(b) Title I shall not apply during the fiscal year ending Sept. 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized. — See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990." — See Mayor's Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991." — See Mayor's Order 91-147, October 4, 1991.

§ 47-331.1. Full faith and credit of District pledged.

The full faith and credit of the District is pledged for the payment of the principal of and interest on any general obligation bond or note issued under

§ 47-321(a), § 47-327(a), or § 47-328(a), whether or not such pledge is stated in such bond or note or in the act authorizing the issuance of such bond or note. (Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 14; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Tax revenue anticipation notes authorized. — D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December 14, 1990, and D.C. Law 9-46, the "General Fund Recovery Act of 1991," effective August

17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1990.

D.C. Law 9-46, the "General Fund Recovery Act of 1991," effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Section 401 of D.C. Law 9-46 provided that:

(a) Title I shall not apply during the fiscal year ending Sept. 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

(b) Title I shall not apply during the fiscal year ending Sept. 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized. — See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990." — See Mayor's Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991." — See Mayor's Order 91-147, October 4, 1991.

§ 47-331.2. Payment of bonds and notes.

(a) The Council shall provide in each annual budget for the District of Columbia government for a fiscal year adopted by the Council pursuant to § 47-304 sufficient funds to pay the principal of and interest on all general obligation bonds or notes issued under § 47-321(a), § 47-327(a), or § 47-328(a) becoming due and payable during such fiscal year.

(b) The Mayor shall insure that the principal of and interest on all general obligation bonds and notes issued under § 47-321(a), § 47-327(a), or § 47-328(a) are paid when due, including by paying such principal and interest from funds not otherwise legally committed.

(c) If the Mayor determines that no other funds are available to pay the principal and interest due and payable during any fiscal year on any general obligation bond or note issued under § 47-321(a), § 47-327(a), or § 47-328(a), the annual federal payment appropriated for such fiscal year under the

authorization contained in § 47-3406 shall first be used to pay such principal or interest.

(d) The 4th sentence of § 47-304 shall not apply to:

(1) Any amount set aside in a debt service fund under § 47-331(a);

(2) Any amount obligated or expended for the payment of the principal of, interest on, or redemption premium for any general obligation bond or note issued under § 47-321(a), § 47-327(a), or § 47-328(a);

(3) Any amount obligated or expended as provided by the Council in any annual budget for the District of Columbia government pursuant to subsection (a) of this section or as provided by any amendment or supplement to such budget; or

(4) Any amount obligated or expended by the Mayor pursuant to subsection (b) or (c) of this section. (Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 14; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-304 and 47-310.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the Dis-

trict of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

§ 47-331.3. Full faith and credit of United States not pledged.

The full faith and credit of the United States is not pledged for the payment of any principal of or interest on any bond, note, or other obligation issued by the District under this part. The United States is not responsible or liable for the payment of any principal of or interest on any bond, note, or other obligation issued by the District under this part. (Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 15; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “This part,” referred to in this section, refers to part E (comprising §§ 461 to 490) of title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 804-809, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Tax revenue anticipation notes authorized. — D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December 14, 1990, and D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1990.

D.C. Law 9-46, the “General Fund Recovery

Act of 1991," effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Section 401 of D.C. Law 9-46 provided that:

(a) Title I shall not apply during the fiscal year ending Sept. 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

(b) Title I shall not apply during the fiscal year ending Sept. 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance

of general obligation bonds to finance the accumulated deficit of the District.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized. — See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990." — See Mayor's Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991." — See Mayor's Order 91-147, October 4, 1991.

§ 47-332. Tax exemption [Charter Provision].

Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all federal and District taxation except estate, inheritance, and gift taxes. (1973 Ed., § 47-252; Dec. 24, 1973, 87 Stat. 807, Pub. L. 93-198, title IV, § 485.)

Charter provisions. — This section of the D.C. Code is § 485 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

References in text. — "This title," referred to in this section, is title IV (consisting of §§ 401 to 495) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 785-811, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that "§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections."

§ 47-333. Legal investment in District obligations [Charter Provision].

Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite, purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the Council to the same extent as national banking associations are authorized by paragraph 7 of § 5136 of the Revised Statutes (§ 24 of Title 12, United States Code), to deal in, underwrite, purchase and sell obligations of

the United States, states, or political subdivisions thereof. All federal building and loan associations and federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title. Nothing contained in this section shall be construed as relieving any person, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment. (1973 Ed., § 47-253; Dec. 24, 1973, 87 Stat. 807, Pub. L. 93-198, title IV, § 486.)

Charter provisions. — This section of the D.C. Code is § 486 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

References in text. — “This title,” referred to in the first and third sentences in this section, is title IV (consisting of §§ 401 to 495) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 88 Stat. 785-811, Pub. L. 93-198, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

§ 47-334. Revenue bonds and other obligations [Charter Provision].

(a)(1) The Council may by act authorize the issuance of revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, to refinance, or to assist in the financing or refinancing of, undertakings in the areas of housing, health facilities, transit and utility facilities, recreational facilities, college and university facilities, college and university programs which provide loans for the payment of educational expenses for or on behalf of students, pollution control facilities, industrial and commercial development, and water and sewer facilities (as defined in paragraph (5) of this subsection). Any such financing or refinancing may be effected by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be a special obligation of the District and shall be a negotiable instrument, whether or not such bond, note, or other obligation is a security as defined in § 28:8-102(1)(a).

(3) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be paid and secured (as to principal, interest, and any premium) as provided by the act of the Council authorizing the issuance of such bond, note, or other obligation. Subject to subsection (c) of this section,

any act of the Council authorizing the issuance of such bond, note, or other obligation may provide for:

(A) The payment of such bond, note, or other obligation from any available revenues, assets, or property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities); and

(B) The securing of such bond, note, or other obligation by the mortgage of real property or the creation of any security interest in available revenues, assets, or other property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities).

(4)(A) In authorizing the issuance of any revenue bond, note, or other obligation under paragraph (1) of this subsection, the Council may enter into, or authorize the Mayor to enter into, any agreement concerning the acquisition, use, or disposition of any funds or property. Any such agreement may create any security interest in any funds or property, may provide for the custody, collection, security, investment, and payment of any funds (including any funds held in trust) for the payment of such bond, note, or other obligation, may mortgage any property, may provide for the acquisition, construction, maintenance, and disposition of the undertaking financed or refinanced using the proceeds of such bond, note, or other obligation, and may provide for the doing of any act (or the refraining from doing of any act) which the District has the right to do in the absence of such agreement. Any such agreement may be assigned for the benefit of, or made a part of any contract with, any holder of such revenue bond, note, or other obligation issued under paragraph (1) of this subsection.

(B) Notwithstanding Article 9 of Title 28, any security interest created under subparagraph (A) of this paragraph shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the District, whether or not such individual or legal entity has notice of such lien.

(C) Any funds of the District held for the payment or security of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection, whether or not such funds are held in trust, may be secured in the manner agreed to by the District and any depository of such funds. Any depository of such funds may give security for the deposit of such funds.

(5) In paragraph (1) of this subsection, the term "water and sewer facilities" means facilities for the obtaining, treatment, storage, and distribution of water, the collection, storage, treatment, and transportation of wastewater, storm drainage, and the disposal of liquids and solids resulting from treatment.

(b) No property owned by the United States may be mortgaged or made subject to any security interest to secure any revenue bond, note, or other obligation issued under paragraph (1) of subsection (a) of this section.

(c) Any and all such bonds, notes, or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as contained in § 1-233(a)(2).

(d) Any and all such bonds, notes, or other obligations shall be issued pursuant to an act of the Council without the necessity of submitting the question of such issuance to the registered qualified electors of the District for approval or disapproval.

(e) Any act of the Council authorizing the issuance of revenue bonds, notes, or other obligations under paragraph (1) of subsection (a) of this section may:

(1) Briefly describe the purpose for which such bonds, notes, or other obligations are to be issued;

(2) Identify the act authorizing such purpose;

(3) Prescribe the form, terms, provisions, manner, and method of issuing and selling (including sale by negotiation or by competitive bid) such bonds, notes, or other obligations;

(4) Provide for the rights and remedies of the holders of such bonds, notes, or other obligations upon default;

(5) Prescribe any other details with respect to the issuance, sale, or securing of such bonds, notes, or other obligations; and

(6) Authorize the Mayor to take any actions in connection with the issuance, sale, delivery, security, and payment of such bonds, notes, or other obligations, including the prescribing of any terms or conditions not contained in such act of the Council.

(f) The 4th sentence of § 47-304 shall not apply to:

(1) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under paragraph (1) of subsection (a) of this section;

(2) Any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under paragraph (1) of subsection (a) of this section; and

(3) Any amount obligated or expended to secure any revenue bond, note, or other obligation issued under paragraph (1) of subsection (a) of this section.

(g)(1) The Council may delegate to any housing finance agency established by it (whether established before or after April 12, 1980) the authority of the Council under subsection (a) of this section to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing of undertakings in the area of primarily low- and moderate-income housing. The Council shall define for the purposes of the preceding sentence what undertakings shall constitute undertakings in the area of primarily low- and moderate-income housing. Any such housing finance agency may exercise authority delegated to it by the Council as described in the first sentence of this

paragraph (whether such delegation is made before or after April 12, 1980) only in accordance with this subsection.

(2) Revenue bonds, notes, and other obligations issued by a housing finance agency of the District under a delegation of authority described in paragraph (1) of this subsection shall be issued by resolution of the agency, and any such resolution shall not be considered to be an act of the Council.

(3) The 4th sentence of § 47-304 shall not apply to:

(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection;

(B) Any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under paragraph (1) of this subsection; and

(C) Any amount obligated or expended to secure any revenue bond, note, or other obligation issued under paragraph (1) of this subsection.

(h)(1) The Council may delegate to the District of Columbia Water and Sewer Authority established pursuant to § 43-1672 the authority of the Council under subsection (a) of this section to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing or refinancing of undertakings in the area of utilities facilities, pollution control facilities, and water and sewer facilities (as defined in subsection (a)(5) of this section). The Authority may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after August 6, 1996) only in accordance with this subsection.

(2) Revenue bonds, notes, and other obligations issued by the District of Columbia Water and Sewer Authority under a delegation of authority described in paragraph (1) of this subsection shall be issued by resolution of the Authority, and any such resolution shall not be considered to be an act of the Council.

(3) The fourth sentence of § 47-304 shall not apply to:

(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued pursuant to this subsection;

(B) Any amount obligated or expended for the payment of the principal of interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

(C) Any amount obligated or expended to secure any revenue bond, note, or other obligation issued pursuant to this subsection; or

(D) Any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to this subsection. (1973 Ed., § 47-254; Dec. 24, 1973, 87 Stat. 809, Pub. L. 93-198, title IV, § 490; Dec. 28, 1977, 91 Stat. 1612, Pub. L. 95-218; Apr. 12, 1980, 94 Stat. 335, Pub. L. 96-235; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 16; Oct. 15, 1982, 96 Stat. 1614, Pub. L. 97-328; Aug. 6, 1996, 110 Stat. 1696, Pub. L. 104-184, §§ 2(a), (b), (c)(1).)

Charter provisions. — This section of the D.C. Code is § 490 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

Section references. — This section is referred to in §§ 2-4011, 2-4012, 9-710, 40-852, 45-2116, 47-304, 47-310, 47-335, and 47-341.

Effect of amendments. — Public Law 104-184, 110 Stat. 1696, in (a)(1), in the first sentence, deleted “and” preceding “industrial,” and added “and water and sewer facilities (as defined in paragraph (5) of this subsection)” to the end; inserted “(including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities)” in (a)(3)(A) and (B); and added (a)(5).

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Enactment upon adoption of federal legislation. — Section 4 of D.C. Law 11-254 provided that “§§ 47-101, 47-117, 47-130, 47-301, 47-302, 47-303, 47-304, 47-304.1, 47-305, 47-310, 47-312, 47-317.1 through 47-317.6, 47-321 through 47-325, 47-327 through 47-331, and 47-332 through 47-334 of Title 47 of the District of Columbia Code shall be enacted as part of Title 47 upon the adoption by Congress of legislation so enacting these sections.”

Expenditures for student loan revenue bond program authorized. — Section 135(a) of H.R. 3067, amended by H.R. 99-419, incorporated in Pub. L. 99-190 by § 101(c), the D.C. Appropriation Act, 1986, provided that there are authorized to be expended from the amounts otherwise available to the District of Columbia government (including amounts appropriated by the District of Columbia Appropriation Act, 1986, or revenues otherwise available, or both) such sums as may be necessary to finance the District’s participation in a student loan revenue bond program, and sums authorized to be expended by this section shall remain available without limitation as to fiscal year until such student loan revenue bonds have been paid or payments have been provided for.

Waiver of Congressional review for certain revenue bond acts. — Section 136(a) of H.R. 3067, amended by H.R. 99-419, incorporated in Pub. L. 99-190 by § 101(c), the D.C. Appropriation Act, 1986, provided that § 602(c) of the Self-Government Act (Pub. L. 93-198) shall not apply to certain acts authorizing the issuance of revenue bonds. Section 136(b) of H.R. 3067 provided that the subject revenue

bond acts shall take effect on the date of enactment of the act. Pub. L. 99-190 was approved Dec. 19, 1985. The revenue bond acts subject to waiver of review, set forth in § 136(c) of H.R. 3067, are The Georgetown University Higher Education Facilities Revenue Bond Act of 1985 (D.C. Law 6-75), The Sibley Memorial Hospital Revenue Bond Act of 1985 (D.C. Law 6-70), The Forrest Marbury House Project Revenue Bond Act of 1985 (D.C. Law 6-86), The American University Revenue Bond Act of 1985 (D.C. Law 6-78), and The George Washington University Revenue Bond Act of 1985 (D.C. Law 6-79).

Section 2 of Pub. L. 99-216 also waived Congressional review for D.C. Laws 6-75 and 6-70, providing that they take effect on the date of enactment of the public law, which was approved Dec. 26, 1985.

Section 1 of Pub. L. 99-242 amended § 2 of Pub. L. 99-216 to include also D.C. Laws 6-78 and 6-79. § 2 provided that they should take effect as if included in Pub. L. 99-216, with certain restrictions.

Loan to George Washington University. — D.C. Law 4-58, effective December 23, 1981, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to George Washington University to assist in the financing of certain academic facilities.

Public Law 97-107, approved December 23, 1981, provides that § 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to the George Washington University Higher Education Facilities Revenue Bond Act of 1981 (District of Columbia Act 4-104) passed by the Council of the District of Columbia on October 27, 1981, and signed by the Mayor of the District of Columbia on October 30, 1981, and such District of Columbia act shall become law on the date of the enactment of this act, notwithstanding § 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision to the contrary in such District of Columbia act.

D.C. Law 4-151, effective September 17, 1982, authorized the issuance of revenue notes of the District of Columbia for the purpose of making a loan to George Washington University to assist in the financing of certain academic facilities.

D.C. Law 6-53, effective November 19, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to George Washington University to assist in the financing of certain academic facilities.

D.C. Law 6-79, effective December 26, 1985, authorized and provided for the issuance, sale and delivery of District of Columbia revenue bonds and authorized and provided for a loan to The George Washington University.

Loan to Ottenberg's Bakers, Inc. — D.C. Law 5-114, effective Sept. 26, 1984, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to Ottenberg's Bakers to assist in the financing of undertakings in the areas of industrial and commercial development.

Loan to The Phillips Collection. — D.C. Law 5-190, effective March 16, 1985, authorized the issuance, sale and delivery of District of Columbia revenue bonds and authorized and provided for a loan to The Phillips Collection.

Loan to National Rehabilitation Hospital, Inc. — D.C. Law 5-191, effective March 16, 1985, authorized the issuance, sale and delivery of District of Columbia revenue bonds, and authorized and provided for a loan to the National Rehabilitation Hospital, Inc.

D.C. Law 8-56, effective November 17, 1989, authorized the issuance, sale, and delivery of revenue bonds of the District of Columbia and authorized a loan to the National Rehabilitation Hospital, Inc.

Loan to District of Columbia Association for Retarded Citizens, Inc. — D.C. Law 5-192, effective March 16, 1985, authorized the issuance, sale and delivery of District of Columbia revenue bonds and authorized and provided for a loan to the District of Columbia Association for Retarded Citizens, Inc.

Loan to Georgetown University. — D.C. Law 6-14, effective July 25, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to Georgetown University to assist in the financing of certain academic facilities.

D.C. Law 6-75, effective December 26, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to Georgetown University to assist in the financing of certain academic facilities.

D.C. Law 7-180, effective December 23, 1988, authorized the issuance, sale and delivery of bonds of the District of Columbia and authorized a loan to Georgetown University.

Loan to Georgetown University project. — D.C. Law 8-185, the "Georgetown University Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing or refinancing of the Georgetown University project.

Loan to Washington Beef Limited Partnership. — D.C. Law 6-27, effective September 5, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to Washington Beef Limited Partnership to assist in the financing of a refrigerated warehouse and distribution center.

Loan to Museum Building Limited Partnership. — D.C. Law 6-28, effective September

5, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to the Museum Building Limited Partnership to assist in the financing of the National Museum of Women in the Arts in the District of Columbia.

Loan to American University. — D.C. Law 6-29, effective September 5, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to The American University.

D.C. Law 6-78, effective December 26, 1985, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to The American University.

Loans to certain nonprofit hospitals. — D.C. Law 6-41, effective October 5, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to certain nonprofit hospitals.

Section 2 of D.C. Law 7-60 amended § 16 of D.C. Law 6-41. Section 3(b) of D.C. Law 7-60 provides that the act shall expire on the 225th day of its having taken effect.

Section 2 of D.C. Law 7-112 amended § 16 of D.C. Law 6-41.

Loan to The Washington Home for Incurables, Inc. — D.C. Law 6-46, effective October 5, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan to The Washington Home for Incurables, Inc., to assist in the financing of certain facilities.

Revenue bonds authorized for establishment of student loan program. — D.C. Law 6-50, effective October 25, 1985, authorized the issuance of revenue bonds of the District of Columbia for the purpose of providing for the establishment of a college and university student loan program.

Loan to Washington Hospital Center Corporation. — D.C. Law 6-68, effective December 3, 1985, authorized the issuance, sale and delivery of District of Columbia revenue bonds and authorized and provided for a loan to the Washington Hospital Center Corporation.

D.C. Law 8-175, the "Washington Hospital Center Corporation Revenue Bond Act of 1990," effective October 2, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing, refinancing, or reimbursing of the Washington Hospital Center Corporation project.

Loan to Sibley Memorial Hospital. — D.C. Law 6-70, effective December 26, 1985, authorized the issuance, sale and delivery of District of Columbia revenue bonds and authorized a loan to Sibley Memorial Hospital.

Loan to Forrest Marbury House Associates Limited Partnership. — D.C. Law 6-86,

effective February 21, 1986, authorized the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to Forrest Marbury House Associates Limited Partnership.

Loan to Dr. Cleveland Williams Medical Professional Building. — D.C. Law 6-146, effective September 23, 1986, authorized the issuance of revenue bonds of the District of Columbia for the purpose of making a loan for a medical professional center.

Loan to Hadley Memorial Hospital. — D.C. Law 6-148, effective September 23, 1986, authorized the issuance of revenue bonds of the District of Columbia and authorized a loan to Hadley Memorial Hospital.

Loan to T.C.I., Ltd., Project. — D.C. Law 6-149, effective September 23, 1986, authorized the issuance, sale, and delivery of District of Columbia revenue bonds and authorized a loan to T.C.I., Ltd., Project.

Loan to Maurice Limited Partnership Project. — D.C. Law 6-154, effective September 23, 1986, authorized the issuance of revenue bonds of the District of Columbia and authorized a loan to Maurice Limited Partnership.

Loan to Howard University. — D.C. Law 6-156, effective September 23, 1986, authorized the issuance, sale, and delivery of bonds of the District of Columbia for the purpose of making a loan to Howard University.

D.C. Law 8-55, effective November 17, 1989, authorized the issuance, sale, and delivery of revenue bonds of the District of Columbia and authorized a loan to the Howard University.

D.C. Law 8-184, "The Howard University Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing, refinancing, or reimbursing of the Howard University project.

Loan to Shaw/Manhattan Facility. — D.C. Law 6-157, effective September 23, 1986, authorized the issuance, sale, and delivery of bonds of the District of Columbia for the purpose of making a loan to the Shaw/Manhattan Facility.

Loan to St. John's Child Development Center. — D.C. Law 7-150, effective September 20, 1988, authorized the issuance of revenue bonds of the District of Columbia and authorized a loan to St. John's Child Development Center.

Loan to Providence Hospital. — D.C. Law 7-151, effective September 20, 1988, authorized the issuance of revenue bonds of the District of Columbia and authorized a loan to Providence Hospital.

Loan to Columbia Hospital for Women. — D.C. Law 7-153, effective September 20, 1988, authorized the issuance of revenue bonds

of the District of Columbia and authorized a loan to Columbia Hospital for Women.

Loan to Hospital for Sick Children. — D.C. Law 7-178, effective December 30, 1988, authorized the issuance, sale and delivery of bonds of the District of Columbia and authorized a loan for The Hospital for Sick Children.

Loan to Children's Hospital National Medical Center. — D.C. Law 7-179, effective December 30, 1988, authorized the issuance, sale and delivery of bonds of the District of Columbia and authorized a loan for the Children's Hospital National Medical Center.

Loan to Association of American Medical Colleges. — D.C. Law 8-53, effective November 17, 1989, authorized the issuance, sale, and delivery of revenue bonds of the District of Columbia and authorized a loan to the Association of American Medical Colleges.

Loan to The Catholic University of America. — D.C. Law 8-54, effective November 17, 1989, authorized the issuance, sale, and delivery of revenue bonds of the District of Columbia and authorized a loan to The Catholic University of America.

Loan to Army Distaff Foundation, Inc. — D.C. Law 8-183, "The Army Distaff Foundation, Inc. Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing or refinancing of the Army Distaff Foundation, Inc. project.

Loan to Anthony Bowen Landmark Building Trust, Inc. — D.C. Law 8-186, the "Anthony Bowen Landmark Building Trust, Inc. Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing or refinancing of the Anthony Bowen Landmark Building Trust, Inc., project.

Loan to Association of Community Colleges Trustees. — D.C. Law 8-187, the "Association of Community Colleges Trustees Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing or refinancing of the Association of Community Colleges Trustees project.

Loan to the Greater Washington Educational Telecommunications Association, Inc. — D.C. Law 8-188, "The Greater Washington Educational Telecommunications Association, Inc. Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in the financing or

refinancing of the Greater Washington Educational Telecommunications Association, Inc., project.

Loan to Anacostia River Sports Facility. — D.C. Law 8-189, the "Anacostia River Sports Facility Revenue Bond Act of 1990," effective November 6, 1990, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds to assist in the financing or refinancing of the Anacostia River Sports Facility Project.

Loan to National Children's Center, Inc. — D.C. Law 9-16, the "National Children's Center, Inc., Revenue Bond Act of 1991," effective August 17, 1991, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in financing, refinancing or reimbursing of National Children's Center, Inc., project.

Loan to The Abraham and Laura Lisner Home for Aged Women, Inc. — D.C. Law 9-17, the "Abraham and Laura Lisner Home for Aged Women, Inc., Revenue Bond Act of 1991," effective August 17, 1991, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in financing, refinancing, or reimbursing costs of the development of The Abraham and Laura Lisner Home for Aged Women, Inc., project.

Loan to The American College of Obstetricians and Gynecologists. — D.C. Law 9-18, "The American College of Obstetricians and Gynecologists Revenue Bond Act of 1991," effective August 17, 1991, authorized and provided for the issuance, sale, and delivery of District of Columbia revenue bonds and authorized and provided for a loan to assist in financing, refinancing, or reimbursing of The American College of Obstetricians and Gynecologists' project.

Request for Congressional action. — Pursuant to § 501(b) of D.C. Law 10-188, the Council of the District of Columbia requested that Congress amend § 490(h)(3) of the District of Columbia Self-Government and Governmental Reorganization Act to read as follows:

"(3)(A) The fourth sentence of § 47-304 shall not apply to —

(i) any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection,

(ii) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under paragraph (1) of this subsection,

(iii) any amount obligated or expended to secure any revenue bond, note, or other obligation

issued under paragraph (1) of this subsection, and

(iv) any amount obligated or expended for repair, maintenance, and capital improvements issued under paragraph (1) of this subsection.

(B) Other operating obligations or expenditures shall be exempt from the fourth sentence of § 47-304, except that if the operating obligations or expenditures are incurred prior to October 1, 1995, they shall be approved pursuant to the procedures set forth in § 47-304.1."

Waiver of Congressional review period for certain acts authorizing issuance of revenue bonds. — Section 2 of Pub. L. 101-158 provided that:

"(a) **WAIVER.** — The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) **CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.** — The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Howard University Revenue Bond Act of 1989 (District of Columbia Bill 8-299, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such act may not exceed \$82,850,000.

(2) The National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-298, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed \$48,300,000."

Council's intent to authorize issuance of revenue bonds for District of Columbia Hospital Association. — Pursuant to Resolution 5-793, the "District of Columbia Hospital Association Revenue Bond Resolution of 1984," effective July 10, 1984, Council expressed its intent to authorize the issuance of revenue bonds and loans to member hospitals of the District of Columbia Hospital Association.

Council's intent to authorize issuance of revenue bonds to District of Columbia Association for Retarded Citizens, Inc. — Pursuant to Resolution 5-794, the "District of Columbia Association for Retarded Citizens, Inc., Revenue Bond Resolution of 1984," effective July 10, 1984, the Council expressed its intent to authorize the issuance of revenue

bonds and loans to assist in the financing or refinancing of undertakings in the areas of health facilities, recreational facilities or commercial development.

Council's intent to authorize issuance of revenue bonds for The Phillips Collection.

— Pursuant to Resolution 5-795, the "The Phillips Collection Revenue Bond Resolution of 1984," effective July 10, 1984, the Council expressed its intent to authorize the issuance of revenue bonds and loans to assist in the financing of undertakings in the area of recreational facilities or commercial development.

Council's intent to authorize issuance of revenue bonds for Kaiser Foundation Health Plan, Inc.

— Pursuant to Resolution 5-796, the "Kaiser Foundation Health Plan, Inc., Revenue Bond Resolution of 1984," effective July 10, 1984, the Council expressed its intent to authorize the issuance of revenue bonds to assist in the financing of undertakings in the areas of health facilities or commercial development.

Council's intent to authorize issuance of revenue bonds for National Rehabilitation Hospital, Inc.

— Pursuant to Resolution 5-797, the "National Rehabilitation Hospital, Inc., Revenue Bond Resolution of 1984," effective July 10, 1984, the Council expressed its intent to authorize the issuance of revenue bonds to borrow money to finance undertakings in the areas of health facilities or commercial development.

Council's approval of issuance of general obligation bonds for capital projects.

— Pursuant to Resolution 6-92, the "Capital Projects Bonds Issuance Authorization Resolution of 1985," effective April 16, 1985, the Council approved the issuance of general obligation bonds for certain capital projects.

Council's intent to authorize issuance of revenue bonds for General Maintenance Service Company, Inc.

— Pursuant to Resolution 6-132 the "General Maintenance Service Company, Inc., Revenue Bond Resolution of 1985," effective May 14, 1985, the Council expressed its intent to authorize the issuance of revenue bonds and loans for the purpose of financing the acquisition, construction, or rehabilitation of a facility by the General Maintenance Service Company, Inc., for use as its corporate headquarters.

Council's intent to authorize issuance of revenue bonds for TAG Group U.S.A., Inc.

— Pursuant to Resolution 6-133, the "TAG Group U.S.A., Inc., Revenue Bond Resolution of 1985," effective May 14, 1985, the Council expressed its intent to authorize the issuance of revenue bonds and loans for the purpose of financing the acquisition, reconstruction, construction, and renovation of property located at 1215 19th Street, N.W., by the TAG Group

U.S.A., Inc., for use as its western hemisphere headquarters.

Council's intent to authorize issuance of revenue bonds for Maurice Limited Partnership Project. — Pursuant to Resolution 6-597, the "Maurice Limited Partnership Revenue Bond Resolution of 1986," effective March 25, 1986, the Council expressed its intent to authorize the issuance of revenue bonds and loans for the purpose of financing the acquisition, restoration, reconstruction, construction and renovation of a facility at 500 Penn Street, N.E., as a wholesale electrical supply showroom, warehouse and distribution center by the Maurice Limited Partnership.

Medlantic Healthcare Group, Inc., Revenue Bond Project Approval Resolution of 1995.

— Pursuant to Resolution 11-163, effective November 7, 1995, the Council approved the loan of proceeds from the issuance and sale of District of Columbia Revenue Bonds to Medlantic Healthcare Group, Inc., d/b/a Washington Hospital Center, and National Rehabilitation Hospital ("Medlantic").

Carnegie Endowment for International Peace Revenue Bond Project Approval Resolution of 1996.

— Pursuant to Resolution 11-203, effective January 4, 1996, the Council approved the Carnegie Endowment for International Peace Revenue Bond Project.

American University Revenue Bond Project Approval Resolution of 1996.

— Pursuant to Resolution 11-416, effective July 3, 1996, the Council approved the loan of proceeds from the issuance and sale of District of Columbia revenue bonds to the American University Revenue Bond Project.

Georgetown University Revenue Bond Project Approval Resolution of 1996.

— Pursuant to Resolution 11-417, effective July 3, 1996, the Council approved the loan of proceeds from the issuance and sale of District of Columbia revenue bonds to the Georgetown University Revenue Bond Project.

Howard University Revenue Bond Project Approval Resolution of 1996.

— Pursuant to Resolution 11-418, effective July 3, 1996, the Council approved the loan of proceeds from the issuance and sale of District of Columbia revenue bonds to the Howard University Revenue Bond Project.

Lucy Webb Hayes National Training School for Deaconesses and Missionaries, in care of Sibley Memorial Hospital, Hospital Revenue Bond Project Approval Resolution of 1996.

— Pursuant to Resolution 11-524, effective October 1, 1996, the Council approved the issuance, sale, and delivery of District of Columbia Revenue Bonds and the loan of proceeds thereof to assist in the financing, refinancing, or reimbursing of costs related to the Lucy Webb Hayes National Training

School for Deaconesses and Missionaries, in care of Sibley Memorial Hospital.

Individual Development, Inc. (Successor to We Care Projects, Inc.) Revenue Bond Project Emergency Approval Resolution of 1996. — Pursuant to Resolution 11-670, effective December 3, 1996, the Council approved, on an emergency basis, the issuance, sale, and delivery of District of Columbia revenue bonds and the loan of proceeds thereof to assist in the financing, refinancing, or reimbursing of costs related to certain intermediate care residential facilities for the mentally retarded owned and operated by Individual Development, Inc. (Successor to We Care Projects, Inc.).

Delegation of authority under Ottenberg's Bakers Inc., Projects Revenue Bond Act of 1984. — See Mayor's Order 84-188, October 23, 1984.

Delegation of functions under section 490(e)(6) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 as amended. — See Mayor's Order 85-39, April 1, 1985.

Delegation of contracting authority. — See Mayor's Order 91-92, June 7, 1992.

Delegation of functions under § 490(e)(6) of the D.C. Self-Government and Government Reorganization Act of 1973, as amended, D.C. Code § 47-334(e)(6). — See Mayor's Orders 91-154, October 1, 1991; 92-73, June 16, 1992; 93-170, October 22, 1993.

Delegation of Functions under Acts Authorizing the Issuance of Revenue Bonds, Notes and Other Obligations. — See Mayor's Order 93-104, July 15, 1993.

§ 47-335. Permissible security.

Any revenue bonds, notes, or other obligations authorized by an act of the Council of the District of Columbia enacted subsequent to August 1, 1981, pursuant to § 47-334(a), may be secured by a mortgage of real property or a security interest in any revenues, assets, or other property, notwithstanding that such mortgage or other security interest may not have been authorized by such § 47-334(a) as of the effective date of such act. (Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 19(b); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Subchapter II-A. Capital Review and Debt Affordability.

§ 47-336. Definitions.

For the purposes of this subchapter, the term:

(1) "Capital lease financings" means a lease in which the District is the lessee and which meets 1 or more of the following criteria:

(A) The lease transfers ownership of the property to the lessee by the end of the lease term;

(B) The lease allows the lessee to purchase the real property at a bargain price;

(C) The term of the lease is 75% or more of the estimated useful economic life of the real property; or

(D) The present value of the lease payments is 90% or more of the fair market value of the real property.

(2) "Committee" means the Capital Review and Debt Affordability Committee.

(3) "Multiyear capital improvements plan" means the multiyear capital improvements plan required by § 47-303.

(4) "Special real property tax levy" means that portion of the real property tax levy required by District of Columbia general obligation bonds acts to be

deposited in the debt service fund so that, when added to the funds already on deposit in the fund, the fund will be sufficient to pay the principal and interest on all outstanding general obligation bonds and additional general obligation bonds coming due in any year. (May 24, 1994, D.C. Law 10-126, § 2, 41 DCR 1814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-126. — Law 10-126, the “Capital Review and Debt Affordability,” was introduced in Council and assigned Bill No. 10-470, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on Febru-

ary 1, 1994, and March 1, 1994, respectively. Signed by the Mayor on March 24, 1994, it was assigned Act No. 10-219 and transmitted to both Houses of Congress for its review. D.C. Law 10-126 became effective on May 24, 1994.

§ 47-337. Capital Review and Debt Affordability Committee.

- (a) There is established a Capital Review and Debt Affordability Committee.
- (b) The Committee shall consist of the following 5 members:
 - (1) One individual appointed by the Mayor; and
 - (2) The following 4 ex officio members:
 - (A) The City Administrator;
 - (B) The Chief Financial Officer;
 - (C) The Director of the Department of Public Works; and
 - (D) The Chairman of the Council.
- (c) The Chief Financial Officer shall serve as the chairperson of the Committee.
- (d) The chairperson shall call meetings of the Committee as needed to perform its duties. (May 24, 1994, D.C. Law 10-126, § 3, 41 DCR 1814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-126. — See note to § 47-336.

§ 47-338. Duties of the Committee.

- (a) The Committee shall review the size and condition of the District general obligation bonds and capital lease financings on a continuing basis.
- (b) On or before August 1 of each year, the Committee shall submit to the Mayor and the Council the Committee’s estimate of the total amount of new District general obligation bonds and capital lease financings that prudently may be authorized for the next fiscal year.
- (c) In making the estimate the Committee shall consider the following:
 - (1) The amount of District general obligation bonds and capital lease financings that, during the next fiscal year:
 - (A) Will be outstanding; and
 - (B) Will be authorized but unissued;
 - (2) The capital budget;
 - (3) The multiyear capital improvements plan;
 - (4) Projections of debt service and capital lease payment requirements during the next 6 years;

(5) The criteria used by bond rating agencies to judge the quality of issues of District bonds; and

(6) Any other factor that is relevant to the ability of the District to meet its projected debt service and capital lease financings.

(d) The estimate of the Committee is advisory and does not bind the Council or the Mayor.

(e) The Committee may review the capital needs of the District on a continuing basis.

(f) On or before October 1 of each year, the Committee may submit to the Mayor and the Council the Committee's recommended allocation for the following budget year of financing determined under this section for the following capital projects:

- (1) Mass Transit Facilities and Equipment;
- (2) Public School and Public Education Facilities and Equipment;
- (3) Governmental and Public Works Facilities and Equipment;
- (4) Administrative Services Facilities and Equipment;
- (5) Transportation and Public Works Facilities and Equipment;
- (6) Public and Assisted Housing Facilities and Equipment;
- (7) Correctional and Public Safety Facilities and Equipment; and
- (8) All other capital projects.

(g) In recommending the allocation, the Committee shall consider the following:

- (1) A multiyear capital improvements strategy;
- (2) The condition and life replacement cycle of the District's infrastructure;
- (3) The requirements for sustained economic development;
- (4) The availability of matching federal grant funds;
- (5) The condition of and need for public and correctional facilities;
- (6) Existing contract commitments;
- (7) Commitments for regional participation; and
- (8) Comprehensive plans for other specific types of capital investment.

(h) The allocation of financing recommended by the Committee is advisory and does not bind the Mayor or the Council. (May 24, 1994, D.C. Law 10-126, § 4, 41 DCR 1814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-126. — See note to § 47-336.

§ 47-339. Preliminary capital budget and multiyear capital improvements plan.

On or before January 10 of each year, the Mayor shall transmit to the Council a preliminary capital budget for the next fiscal year and a preliminary multiyear capital improvements plan. (May 24, 1994, D.C. Law 10-126, § 5, 41 DCR 1814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-126. — See note to § 47-336.

§ 47-340. Notation of debt service requirement on real property tax bills.

Commencing with the tax year beginning October 1, 1994, and ending September 30, 1995, and for each tax year thereafter, the Mayor shall note on the first half tax bill, which is due and payable by March 31, 1995, and on the second half tax bill, which is due and payable by September 15, 1995, the percent of the total real property tax levy that constitutes the special real property tax levy. (May 24, 1994, D.C. Law 10-126, § 6, 41 DCR 1814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-126. — See note to § 47-336.

Subchapter II-B. Industrial Revenue Bond Forward Commitment Program.

§ 47-340.1. Revenue bonds and other obligations.

For the purpose of this subchapter, the term:

(1) "Applicant" means each person, sole proprietorship, corporation, partnership, limited partnership, joint venture, trust, firm, association, unincorporated organization, or a government or an agency or political subdivision thereof, or other legal entity, applying to receive revenue bond financing pursuant to section 490 of the Home Rule Act.

(2) "Authorized delegate" means the Assistant City Administrator for Economic Development, the Deputy Mayor for Financial Management, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this subchapter pursuant to section 422(6) of the Home Rule Act.

(3) "Bond counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(4) "Bonds" means one or the several separate series of District revenue bonds, notes, and other obligations authorized to be issued pursuant to this subchapter.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing documents" means all documents and agreements other than financing documents that may be necessary and appropriate to issue, sell, and deliver each applicable series of bonds and to make the loans contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "Council" means the Council of the District of Columbia.

(8) "Development" means the acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, expansion, or extension and the equipping and the furnishing of eligible projects.

(9) "District" means the District of Columbia.

(10) "Eligible project" means the financing, refinancing, or reimbursing of costs of the development of facilities in the areas of housing, health facilities, transit and utility facilities, recreation facilities, college and university facilities, college and university student loan programs, pollution control facilities, and industrial and commercial development authorized pursuant to this subchapter.

(11) "Financing documents" means the documents other than closing documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery contemplated thereby, including any offering documents and any required supplements to those documents.

(12) "Forward authorization program" means District approval of a program to expedite the issuance, sale, and delivery of revenue bonds in one or multiple separate series pursuant to this subchapter.

(13) "Home Rule Act" means the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774; D.C. Code § 1-201 passim).

(14) "Issuance costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of each applicable series of bonds and the making of loans contemplated thereby, including, but not limited to, program fees and administrative fees charged by the District; underwriting, legal, accounting, rating agency, and other financing fees, costs, and expenses; fees paid to financial institutions and insurance companies; initial letter of credit fees, compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District; and all other fees, costs, charges, and expenses incurred in connection with the development, and implementation of the financing documents, the closing documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of each applicable series of bonds and the making of loans contemplated thereby.

(15) "Loan" means the District's lending of proceeds from the sale of each applicable series of bonds, including by the purchase of any mortgage, note, or other security or by the purchase, lease, or sale of any property.

(16) "Mayor" means the Mayor of the District of Columbia.

(17) "Rules of the Council" means the guidelines and standards governing Council conduct adopted by the Council. (Sept. 8, 1995, D.C. Law 11-37, § 2, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 2, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — D.C. Law 11-37 enacted §§ 47-340.1 through 47-340.16, comprising subchapter II-B of chapter 3 of Title 47.

Section 18(b) of D.C. Law 11-37 provided that the act shall expire on the 225th day of its having taken effect or on the effective date of the Industrial Revenue Bond Forward Commit-

ment Program Authorization Act of 1995, whichever occurs first.

Emergency act amendments. — For temporary addition of subchapter, see § 2 to 17 of the Industrial Revenue Bond Forward Commitment Program Authorization Emergency Act of 1995 (D.C. Act 11-49, May 15, 1995, 42 DCR 2548) and § 2 to 17 of the Industrial Revenue

Bond Forward Commitment Program Authorization Congressional Recess Emergency Act of 1995 (D.C. Act 11-99, July 19, 1995, 42 DCR 3851).

Legislative history of Law 11-37. — Law 11-37, the “Industrial Revenue Bond Forward Commitment Program Authorization Temporary Act of 1995,” was introduced in Council and assigned Bill No. 11-252. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-70 and transmitted to both Houses of Congress for its review. D.C. Law 11-37 became effective September 8, 1995.

Legislative history of Law 11-46. — Law 11-46, the “Industrial Revenue Bond Forward Commitment Program Authorization Act of 1995,” was introduced in Council and assigned Bill No. 11-119, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 6, 1995, and June 20, 1995, respectively. Signed by the Mayor on June 30, 1995, it was assigned Act No. 11-85 and transmitted to both Houses of Congress for its review. D.C. Law 11-46 became effective on September 20, 1995.

References in text. — Section 490 of the Home Rule Act, referred to in paragraph (1), is codified as § 47-334.

Section 422(6) of the Home Rule Act, referred to in paragraph (2), is codified as § 1-242(6).

Medlantic Healthcare Group, Inc., Revenue Bond Project Approval Resolution of 1995. — Pursuant to Resolution 11-163, effective November 7, 1995, the Council approved the loan of proceeds from the issuance and sale of District of Columbia Revenue bonds to Medlantic Healthcare Group, Inc., d/b/a/ Washington Hospital Center and National Rehabilitation Hospital.

American University Revenue Bond Project Approval Resolution of 1996. — Pursuant to Resolution 11-416, effective July 3, 1996, the Council approved the loan of proceeds

from the issuance and sale of District of Columbia revenue bonds to the American University Revenue Bond Project.

Georgetown University Revenue Bond Project Approval Resolution of 1996. — Pursuant to Resolution 11-417, effective July 3, 1996, the Council approved the loan of proceeds from the issuance and sale of District of Columbia revenue bonds to the Georgetown University Revenue Bond Project.

Howard University Revenue Bond Project Approval Resolution of 1996. — Pursuant to Resolution 11-418, effective July 3, 1996, the Council approved the loan of proceeds from the issuance and sale of District of Columbia revenue bonds to the Howard University Revenue Bond Project.

Lucy Webb Hayes National Training School for Deaconesses and Missionaries, in care of Sibley Memorial Hospital, Hospital Revenue Bond Project Approval Resolution of 1996. — Pursuant to Resolution 11-524, effective October 1, 1996, the Council approved the issuance, sale, and delivery of District of Columbia Revenue Bonds and the loan of proceeds thereof to assist in the financing, refinancing, or reimbursing of costs related to the Lucy Webb Hayes National Training School for Deaconesses and Missionaries, in care of Sibley Memorial Hospital.

Individual Development, Inc. (Successor to We Care Projects, Inc.) Revenue Bond Project Emergency Approval Resolution of 1996. — Pursuant to Resolution 11-670, effective December 3, 1996, the Council approved, on an emergency basis, the issuance, sale, and delivery of District of Columbia revenue bonds and the loan of proceeds thereof to assist in the financing, refinancing, or reimbursing of costs related to certain intermediate care residential facilities for the mentally retarded owned and operated by Individual Development, Inc. (Successor to We Care Projects, Inc.).

§ 47-340.2. Bond authorization.

(a) The Mayor is authorized to assist in financing, refinancing, and reimbursing costs of the development of eligible projects by:

(1) Approving the issuance, sale, and delivery of one or more series of revenue bonds in multiple separate series in an aggregate principal amount not to exceed \$850,000,000; and

(2) The making of various loans, pursuant to the Home Rule Act, provided that each such contemplated project shall have been submitted for Council review and approval in accordance with § 47-340.3, and shall not have been the subject of a Council resolution of disapproval.

(b) The Mayor is authorized to make loans to various applicants for the purpose of financing, refinancing, or reimbursing the costs of development of

eligible projects, pay issuance costs with respect to the bonds, and establish any fund with respect to the various series of bonds as required by the financing documents.

(c) The Mayor may charge a program fee to each applicant, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale and delivery of each series of bonds and the District's participation in monitoring of the use of bond proceeds and compliance with any public benefit agreements with the District, maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the bonds. (Sept. 8, 1995, D.C. Law 11-37, § 3, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 3, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

References in text. — The "Home Rule Act," referred to in subsection (a)(2) of this section, is the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 24, 1973, 87 Stat. 774, Pub. L. 93-198, set out in Volume 1 beginning at page 173.

Delegation of Functions under the District of Columbia Self-Government and Governmental Reorganization Act of 1973 and D.C. Law 11-46, the Industrial Revenue Bond Forward Commitment Program Authorization Act of 1995. — See Mayor's Order 96-29, March 5, 1996 (43 DCR 1378).

§ 47-340.3. Council review for each individual project.

(a) For each individual project for which there is a proposed bond series issuance, the Mayor shall submit to the Council a resolution of project approval accompanied by a summary description of the proposed project, a listing of the public purpose benefits to be derived from the proposed undertaking, the preliminary legal sufficiency determinations of the Office of the Corporation Counsel and bond counsel, and a summary of any finding of approval by the Mayor for a 30-day period of Council review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(b) The Council may approve, conditionally approve, or disapprove a proposed project by resolution within 30 days after the Mayor transmits to the Council the information set forth in subsection (a) of this section. Failure of the Council to take action on a resolution within the 30-day review period shall be deemed to be Council approval of the project.

(c) The Council shall transmit to the Mayor notice of expiration of the review period under subsections (a) and (b) of this section. (Sept. 8, 1995, D.C. Law 11-37, § 4, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 4, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-340.2 and 47-340.14.

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

§ 47-340.4. Details of each series of bonds.

(a) The Mayor is authorized to take any action necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of each series of bonds, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that such bonds may be issued in certificate or book entry form;

(2) The principal amount of the bonds to be issued and denominations of the bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the bonds, and the maturity date or dates of such bonds;

(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of each series of bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time and place of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that they are properly applied to their respective project and used to accomplish the purposes of the Home Rule Act;

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds shall be special obligations of the District, shall be without recourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds may be issued in accordance with the terms of the trust instruments entered into by the District and one or more trustees to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The bonds may be issued at any time or from time to time in 1 or more issues and in 1 or more series. (Sept. 8, 1995, D.C. Law 11-37, § 5, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 5, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

References in text. — Section 602(a)(2) of the Home Rule Act, referred to in (b), is codified as § 1-233(a)(2).

Section 490(a)(4) of the Home Rule Act, referred to in (e), is codified as § 47-334(a)(4).

§ 47-340.5. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an authorized delegate may execute, in relation to each sale of the bonds, offering documents on behalf of the District and may authorize the distribution of the documents in relation to the bonds being sold.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from bond counsel as to the validity of the bonds and, if the interest on the bonds is expected to be exempt from federal income taxes, the treatment of the interest on the bonds for purposes of federal income taxation. (Sept. 8, 1995, D.C. Law 11-37, § 6, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 6, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

§ 47-340.6. Payment and security.

(a) The principal of, premium, if any, and interest on the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the loan, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, other moneys that, as provided in the financing documents, may be made available to the District for the payment of the bonds, and other sources, other than the District, of payment, all as provided for in the financing documents.

(b) Payment of the bonds shall be secured as provided in the financing documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the financing documents and closing

documents, including a security interest in certain collateral, to the trustee for the bonds pursuant to the financing documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the financing documents. (Sept. 8, 1995, D.C. Law 11-37, § 7, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 7, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-340.9.

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

§ 47-340.7. Financing and closing documents.

(a) The Council approves the financing documents to which the District is a party in substantially the form in which these documents are filed by the Council with the Office of the Secretary to the Council, and authorizes the Mayor to make modifications to these documents that are within the limitations of the Home Rule Act, and that the Mayor considers appropriate to carry out the purposes of this subchapter.

(b) The Mayor is authorized to prescribe the final form and content of all financing documents and all closing documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver bonds and to make loans to applicants. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(c) The Mayor is authorized to execute in the name of the District, and on its behalf, any financing documents and any closing documents to which the District is a party by the Mayor's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the financing documents and the closing documents to which the District is a party.

(e) The Mayor's execution and delivery of the financing documents and the closing documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed financing documents and the executed closing documents.

(f) The Mayor is authorized to deliver the executed and sealed financing documents and closing documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered financing documents and closing documents. (Sept. 8, 1995, D.C. Law 11-37, § 8, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 8, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

References in text. — The "Home Rule Act," referred to in subsection (a) of this section,

is the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 87 Stat. 774, Pub. L.

93-198, set out in Volume 1 beginning at page 173.

§ 47-340.8. Authorized delegation of authority.

To the extent permitted by District and federal law, the Mayor may delegate to any authorized delegate the performance of any function authorized to be performed by the Mayor under this subchapter. (Sept. 8, 1995, D.C. Law 11-37, § 9, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 9, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

§ 47-340.9. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) Nothing contained in the bonds, in the financing documents, or in the closing documents shall create any obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in § 47-340.6.

(d) The District shall not have liability for the payment of any issuance costs or for any transaction or event to be effected by the financing documents.

(e) All covenants, obligations, and agreements of the District contained in this subchapter, the bonds, and the executed, sealed, and delivered financing and closing documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subchapter.

(f) No person, including any applicant and any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subchapter, the bonds, the financing documents, or the closing documents, nor as a result of the incorrectness of any representation in or omission from the financing documents or the closing documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner. (Sept. 8, 1995, D.C. Law 11-37, § 10, 42 DCR 3261; Sept.

20, 1995, D.C. Law 11-46, § 10, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

References in text. — Section 602(a)(2) of the Home Rule Act, referred to in (a), is codified as § 1-233(a)(2).

§ 47-340.10. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subchapter, the bonds, the financing documents, or the closing documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the financing documents, or the closing documents shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the bonds, the financing documents, or the closing documents. (Sept. 8, 1995, D.C. Law 11-37, § 11, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 11, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

§ 47-340.11. Maintenance of documents.

Copies of the specimen bonds and of the final financing documents and closing documents shall be filed in the Office of the Secretary of the District. (Sept. 8, 1995, D.C. Law 11-37, § 12, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 12, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

§ 47-340.12. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of any series of bonds, the Mayor shall transmit a copy of this transcript to the Secretary to the Council. (Sept. 8, 1995, D.C. Law 11-37, § 13, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 13, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

§ 47-340.13. Disclaimer.

(a) The issuance of bonds is in the discretion of the District. Nothing contained in this subchapter, including, but not limited to, the bonds, the financing documents, the closing documents or the Council resolution, shall be construed as obligating the District to issue any bonds for the benefit of any applicant or to participate in or assist any applicant in any way with financing, refinancing, or reimbursing the costs of the development of any project. The applicant shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any bonds for the benefit of any applicant.

(b) The District reserves the right to issue its bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of any bonds authorized by this subchapter.

(c) The District, by enacting this subchapter or by taking any other action in connection with financing, refinancing, or reimbursing any project, does not provide any assurance that the project is viable or sound, that the applicant is financially sound, or that amounts owing on any bonds or under any loan will be paid. Neither the applicant, any purchaser of the bonds, nor any other person shall rely upon the District with respect to these matters. (Sept. 8, 1995, D.C. Law 11-37, § 14, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 14, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

§ 47-340.14. Expiration.

If any series of bonds is not issued, sold, and delivered to the original purchaser within 3 years of the date of Council approval of a project pursuant to § 47-340.3, the authorization provided in this subchapter with respect to the issuance, sale, and delivery of such series of bonds shall expire. (Sept. 8, 1995, D.C. Law 11-37, § 15, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 15, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1.

Legislative history of Law 11-46. — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

§ 47-340.15. **Severability.**

If any particular provision of this subchapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subchapter is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the bonds authorized by this subchapter, and the validity of the bonds shall not be adversely affected. (Sept. 8, 1995, D.C. Law 11-37, § 16, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 16, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1. **Legislative history of Law 11-46.** — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

§ 47-340.16. **Conflict of laws.**

The procedures set forth in this subchapter shall prevail over any other subchapter of the Council or provision of District law that might be deemed to be inconsistent with this subchapter. (Sept. 8, 1995, D.C. Law 11-37, § 17, 42 DCR 3261; Sept. 20, 1995, D.C. Law 11-46, § 17, 42 DCR 3603; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of subchapter. — See note to § 47-340.1. **Legislative history of Law 11-46.** — See note to § 47-340.1.

Legislative history of Law 11-37. — See note to § 47-340.1.

Subchapter III. Deposit of Public Funds.

§ 47-341. **Definitions.**

For the purposes of this subchapter:

(1) “Average demand deposit balance” means the daily average, computed monthly, of the District’s demand deposits with a depository.

(2) “Board of Appeals and Review” means the board established under Organizational Order No. 112, dated August 11, 1955.

(3) “Community credit union” means a financial institution chartered and insured by the National Credit Union Administration and serving designated geographical areas within the District.

(4) “Council” means the Council of the District of Columbia.

(5) “Default or insolvency” means either:

(A) The inability or failure of a designated depository to repay any public deposit upon demand or at maturity; or

(B) The acknowledgement by a designated depository of such inability or failure to repay; or

(C) The issuance of an order from the appropriate regulatory agency advising a stipulated regulatory agency to arrange for the supervision of the

portfolio of a depository which falls under subparagraphs (A) and (B) of this paragraph.

(6) "Demand deposit" means public funds, exclusive of any savings deposit, which are held by a designated depository subject to withdrawal upon demand by the District or upon a check or warrant of the District.

(7) "District" means the District of Columbia government or any agency, board, commission, institution, committee, office, officer, or instrumentality thereof; or, if required by the context, the word "District" means the geographical area of the District of Columbia.

(8) "Eligible depository" means any commercial bank, savings and loan association, or credit union which is insured by the federal government pursuant to Chapter 16 of Title 12 of the United States Code (64 Stat. 873) and whose main office is located in the District.

(9) "Employment practices" means the record of employment of minority persons and women as defined by the Equal Employment Opportunity Act of 1972 (86 Stat. 103).

(10) "Financial services" means those services normally performed by a demand depository in connection with the retention of demand deposits, including but not limited to check payment, check clearing, the reconciliation of accounts, check printing, the collection and transfer of taxes and fees, night depository services and such other services as may be necessary for the efficient utilization of public funds.

(11) "Installment credit" means any personal loan of \$8,000 or less, made to an individual District resident and payable in installments, for the purchase of consumer durables or services or for personal expenses (excluding home improvements, home rehabilitation, personal lines of credit, and student loans).

(12) "Interest dividend rate bid" means the interest offered to be paid on a savings deposit by an eligible depository computed from the day of deposit to the day of withdrawal of such deposit and subject to appropriate federal requirements.

(13) "Loan origination" means the placement and extension of credit directly to a borrower.

(14) "Mayor" means the Mayor of the District of Columbia, established under § 1-241(a), or the Mayor's designee.

(15) "Moderately-priced housing loan" means any loan to:

(A) A prospective owner-occupant for the purchase of a building containing 1 to 4 residential units in the District selling at or below 120% of the median sale price for such housing sold in the District, according to the latest data available from the Mayor for an entire calendar year; or

(B) A prospective owner-occupant of real property in the District for the construction of a building containing 1 to 4 residential units in the District selling at or below 120% of the median sale price for such housing sold in the District, according to the latest data available from the Mayor for an entire calendar year; or

(C) An owner of real property in the District for the rehabilitation of a building containing 1 to 4 residential units in a loan amount not exceeding \$20,000.

(16) "Moderately-priced multifamily housing loan" means any loan for either:

(A) The purchase or construction of a building containing 5 or more residential units in the District sold at a per unit value at or below 120% of the median sale price for all multifamily units sold in the District according to the latest data available from the Mayor for an entire calendar year; or

(B) The rehabilitation of a building containing 5 or more residential units in the District in a loan amount not to exceed \$15,000 per unit.

(16.1) "Mortgage loan" means a loan which is secured by residential real property or a home improvement loan.

(17) "Obligations of agencies of the United States" mean instruments issued by agencies of the United States government and not directly by the United States Treasury.

(18) "Obligations of the District" means obligations issued by the District pursuant to §§ 47-321, 47-327, 47-328, and 47-334.

(19) "Obligation of the United States government" means an instrument of the United States public debt that is issued by the United States Treasury and fully backed by the United States government, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds.

(20) "Office of the District of Columbia Auditor" means that office as established under § 47-117.

(21) "Public funds" means all monies belonging to or under the control of the District, including, but not limited to, the federal payment, federal grants, taxes, fees, special assessments, all other monies received from the federal government and monies paid to or received by a court, agency or instrumentality of the District, or from any other source; provided, however, that before October 1, 1978, the term "public funds" does not include pension funds held by the District and; provided, further, that nothing in this subchapter shall be construed to require the reinvestment of securities owned by a pension fund on September 30, 1978, and; provided, further, that the term "public funds" does not include the pension funds for the public school teachers of the District and; provided, further, that the term "public funds" does not include any funds authorized to be established pursuant to § 47-3601 or any funds contributed to an irrevocable Section 401(a) Trust established pursuant to § 1-627.11.

(22) "Repurchase agreements" means the sale or purchase of securities subject to the condition that, after a stated period of time, the original seller will buy back such securities at an agreed price plus interest at an agreed rate.

(23) "Savings deposit" means any public funds which are held by a depository and upon which a dividend or interest is paid. The term "savings deposit" includes, inter alia, those instruments commonly known as time certificates of deposit, time deposits, share deposits, share certificate accounts, open accounts, and savings deposits.

(24) "Small business loan" means a loan to a business whose principal place of business is in the District:

(A) For secured loans not to exceed a total of \$500,000 during the previous calendar year; or

(B) For a loan guaranteed by the United States Small Business Administration.

(25) "Student loan" means any loan to a district resident enrolled part-time or full-time in an institution of higher education to provide for the costs directly related to the resident's education. A depository's participation in a student loan pooling arrangement shall be credited to the depository according to its pro rata share in the pool. (1973 Ed., § 47-271; Oct. 26, 1977, D.C. Law 2-32, § 2, 24 DCR 3725; Oct. 8, 1981, D.C. Law 4-40, § 2(a), 28 DCR 3395; Sept. 26, 1984, D.C. Law 5-118, §6(b), 31 DCR 4034; Mar. 7, 1991, D.C. Law 8-220, § 2, 38 DCR 199; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to establishment and elements of Employee Deferred Compensation Program, see §§ 47-3601 to 47-3604.

Section references. — This section is referred to in §§ 1-627.11, 32-242, 36-340, and 47-316.

Legislative history of Law 2-32. — Law 2-32 was introduced in Council and assigned Bill No. 2-107, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first, amended first and second readings on June 28, 1977, July 12, 1977 and July 26, 1977, respectively. Signed by the Mayor on August 17, 1977, it was assigned Act No. 2-78 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-40. — Law 4-40 was introduced in Council and assigned Bill No. 4-2, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 16, 1981 and June 30, 1981, respectively. Signed by the Mayor on July 20, 1981, it was assigned Act No. 4-67 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-118. — Law 5-118, the "Deferred Compensation Act of 1984," was introduced in Council and assigned Bill No. 5-177, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed

by the Mayor on July 13, 1984, it was assigned Act No. 5-170 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-220. — Law 8-220, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978 Section 401(a) Trust Fund Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-558, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-303 and transmitted to both Houses of Congress for its review. D.C. Law 8-220 became effective on March 7, 1991.

References in text. — The Equal Employment Opportunity Act of 1972, referred to in paragraph (9) of this section, is 86 Stat. 103, Pub. L. 92-261, approved March 24, 1972.

Amendment of Organization Order No. 112, establishing Board of Appeals and Review. — See Mayor's Order 84-31, February 9, 1984.

Delegation of authority under D.C. Law 2-32. — See Mayor's Order 85-87, June 10, 1985.

Amendment of delegation of authority under D.C. Law 2-32. — See Mayor's Order 85-168, October 4, 1985.

§ 47-342. Mayor to invest or deposit certain funds.

(a) The Mayor shall invest or deposit all public funds received which are not required to be disbursed immediately. The investments or deposits shall have the longest maturities possible under the circumstances; provided, that the period the Mayor may hold an investment in an obligation of the United States government or its agencies and/or in repurchase agreements shall not exceed 91 days; provided, further, that to the maximum extent practicable the Mayor shall invest public funds in savings deposits.

(b) Public funds may be invested in obligations of the United States government or its agencies directly or through repurchase agreements or deposited in eligible depositories in accordance with this subchapter.

(c) [Repealed.]

(d)(1) All public funds invested in stocks, securities, and other obligations of any institution or company doing business in or with Northern Ireland or with agencies or instrumentalities of Northern Ireland shall be invested to reflect advances to eliminate discrimination made by these institutions or companies as set forth in paragraph (2) of this subsection.

(2) The Mayor shall consider the following actions, referred to as the MacBride Principles, to determine whether advances to eliminate discrimination are being made by companies and institutions doing business in or with Northern Ireland or with agencies or institutions of Northern Ireland:

(A) Increasing the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical, and technical jobs;

(B) Providing adequate security for the protection of minority employees both at the workplace and while traveling to and from work;

(C) Banning provocative religious or political emblems from the workplace;

(D) Publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups;

(E) Providing that layoff, recall, and termination procedures should not in practice favor particular religious groups;

(F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin;

(G) Developing training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees;

(H) Establishing procedures to assess, identify, and actively recruit minority employees with potential for further advancement; and

(I) Appointing senior management staff members to oversee affirmative action efforts and setting up timetables to carry out affirmative action principles.

(3) On or before the first day of October of each year, the Mayor shall determine the existence of affirmative action taken by all institutions and companies doing business in or with Northern Ireland, in which public funds are or will be invested, in adhering to the MacBride Principles as enumerated in paragraph (2) of this subsection and provide an annual report of his or her findings for presentation to the Council, which report shall be made available for public inspection. (1973 Ed., § 47-272; Oct. 26, 1977, D.C. Law 2-32, § 3, 24 DCR 3725; Mar. 8, 1984, D.C. Law 5-50, § 2, 30 DCR 5916; July 22, 1992, D.C. Law 9-127, § 2, 39 DCR 3828; Mar. 16, 1993, D.C. Law 9-185, § 2, 39 DCR 8221; June 28, 1994, D.C. Law 10-134, § 2, 41 DCR 2597; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to limitation on investment of District of Columbia employees retirement funds, see § 1-721.

As to Municipal University Fund, see §§ 31-1516 and 31-1521.

As to District of Columbia Postsecondary Education Fund, see § 31-1533.

As to annual report on expenditure of all funds for public post-secondary education in District, see § 31-1534.

As to management and investment of Housing Finance Agency funds, see § 45-2136.

As to prohibition on deposit or investment of Housing Finance Agency funds in financial institutions or companies making loans to or doing business with Republic of South Africa or Namibia, see § 45-2142.

As to Mayor's order listing companies doing business in or with Republic of South Africa or Namibia, see § 47-139.

As to prohibition on investment of public funds in financial institutions or companies making loans to or doing business with Republic of South Africa or Namibia, see §§ 47-140, 47-141, and 47-142.

Section references. — This section is referred to in §§ 1-627.11 and 3-413.

Effect of amendments. — D.C. Law 10-134 repealed (c).

Temporary amendments of section. — Section 2 of D.C. Law 10-75 repealed (c).

Section 8(b) of D.C. Law 10-75 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the South Africa Sanctions Repeal Act of 1993, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 2 of the South Africa Sanctions Emergency Repeal Act of 1993 (D.C. Act 10-127, October 25, 1993, 40 DCR 7583) and § 2 of the South Africa Sanctions Congressional Recess Emergency Repeal Act of 1994 (D.C. Act 10-176, January 25, 1994, 41 DCR 512).

Legislative history of Law 2-32. — See note to § 47-341.

Legislative history of Law 5-50. — Law 5-50, the "Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983," was introduced in Council and assigned Bill No. 5-18, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on September 6, 1983, and October 4, 1983, respectively. Signed by the Mayor on November 9, 1983, it was assigned Act No. 5-76 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-127. — Law 9-127, the "Namibia Sanctions Repeal Amend-

ment Act of 1992," was introduced in Council and assigned Bill No. 9-361, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-211 and transmitted to both Houses of Congress for its review. D.C. Law 9-127 became effective on July 22, 1992.

Legislative history of Law 9-185. — Law 9-185, the "Public Funds Investment Policy in Financial Institutions and Companies Making Loans to or Doing Business with Northern Ireland Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-311, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 7, 1992, and October 6, 1992, respectively. Signed by the Mayor on November 2, 1992, it was assigned Act No. 9-305 and transmitted to both Houses of Congress for its review. D.C. Law 9-185 became effective on March 16, 1993.

Legislative history of Law 10-75. — Law 10-75, the "South Africa Sanctions Temporary Repeal Act of 1993," was introduced in Council and assigned Bill No. 10-417. The Bill was adopted on first and second readings on October 5, 1993, and November 2, 1993, respectively. Signed by the Mayor on November 4, 1993, it was assigned Act No. 10-142 and transmitted to both Houses of Congress for its review. D.C. Law 10-75 became effective on March 8, 1994.

Legislative history of Law 10-134. — Law 10-134, the "South Africa Sanctions Repeal Act of 1994," was introduced in Council and assigned Bill No. 10-427, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 28, 1994, it was assigned Act No. 10-234 and transmitted to both Houses of Congress for its review. D.C. Law 10-134 became effective on June 28, 1994.

Delegation of authority under Law 5-50. — See Mayor's Order 84-82, May 4, 1984.

Companies and their subsidiaries or affiliates doing business in or with the Republic of South Africa or Namibia. — See Mayor's Order 90-115, August 14, 1990 and Mayor's Order 90-189, November 30, 1990.

Delegation of Authority Under D.C. Law 9-185, "Public Funds Investment Policy in Financial Institutions and Companies Making Loans to or Doing Business with Northern Ireland Amendment Act of 1992." — See Mayor's Order 93-76, June 16, 1993.

§ 47-343. Selection of depositories and investments.

(a) *Short-term deposits and investments.* — A short-term deposit or an investment of 91 days or less shall be made on the basis of the highest interest rate yield available at that time for a similar investment permitted under this subchapter and in a manner consistent with liquidity and safety. To the maximum extent possible, consistent with the highest interest rate yield and the intent of this subchapter, the Mayor shall utilize the evaluation criteria in § 47-344(a) to select financial institutions for short-term investments.

(b) *Term deposits.* — All term deposits exceeding 91 days shall be placed with depositories in the following manner:

(1) Equal amounts, not in excess of \$100,000, shall be offered to be deposited in each community credit union at rates of interest equal to each credit union's current share deposit interest rate; provided, however, that the amount on deposit in any single community credit union at any time pursuant to this subsection shall not exceed \$100,000. Deposits made pursuant to this subsection may be maintained in the community credit union after their original maturity regardless of whether any other District funds are placed therein for term deposit;

(2) Of any remaining funds available for term deposit, not less than $\frac{1}{3}$ of the total amount of each solicitation for the placement of term deposits shall be set aside for the 2 highest ranking savings and loan associations and the 2 highest ranking commercial banks, based on the criteria in § 46-344(a), which bid on the solicitation;

(3) The Mayor shall solicit interest rate bids not less than 3 weeks before the deadline for the submission of the bids. The Mayor shall set forth the term of the proposed deposit, the minimum acceptable rate of interest for deposits placed in noncommunity credit unions and savings and loan associations, and the minimum acceptable rate of interest for deposits placed in commercial banks;

(4) A depository shall submit interest dividend rate bids setting forth the minimum and maximum amount of deposits it will accept. In addition, depositories shall submit in the form required by the Mayor information necessary for ranking bidders in accordance with the criteria in § 47-344(a);

(5) The District shall deposit $\frac{1}{4}$ of the funds set aside pursuant to paragraph (2) of this subsection in each of the 2 highest ranking savings and loan associations and each of the 2 highest ranking commercial banks, based on the criteria in § 47-344(a), submitting an interest dividend rate bid equal to or greater than the District's applicable minimum acceptable bid; provided, however, that the deposit shall not be in excess of the maximum amount bid by the depository. Interest on deposits of funds set aside pursuant to paragraph (2) of this subsection shall be at the applicable minimum acceptable interest rate regardless of the depository's interest dividend rate bid;

(6) The funds not set aside and any funds set aside pursuant to paragraph (2) of this subsection but not deposited pursuant to paragraph (5) of this subsection shall be placed in the depositories submitting interest dividend rate bids equal to or greater than the applicable minimum acceptable rates of

interest so as to yield the maximum return to the District; provided, however, that no depository increasing its score less than 2 percentage points in each category in § 47-344(a) for each calendar year after 1977 shall be eligible for any deposit. The depositories receiving funds set aside pursuant to paragraph (2) of this subsection shall be considered for non-set-aside deposits at their interest dividend rate bid for amounts by which their maximum bid exceeds deposits made pursuant to paragraph (5) of this subsection;

(7) In the event that 2 bids are identical, the institution ranked highest pursuant to the criteria in § 47-344(a) shall be given precedence for the award.

(c) *Demand deposits.* — (1) The Mayor shall promulgate a list of financial services required to be performed by demand depositories in connection with the retention of deposits. The Mayor shall conduct public hearings concerning which of the financial services shall be set aside for award only to the highest ranking commercial banks based on the evaluation criteria in § 47-344(a). After the public hearings and prior to the solicitation of any bid for placing demand deposits, the Mayor shall determine which financial services shall be set aside. The set-aside shall provide that one-third of the public funds be deposited on an annual basis pursuant to set-aside contracts.

(2) On May 1st of every third year beginning with 1981, each commercial bank desiring to bid for the placement of demand deposits shall submit the information, in the form required by the Mayor, necessary for ranking the performance of commercial banks in accordance with the evaluation criteria in § 47-344(a). The Mayor shall give notice in the District of Columbia Register of the ranking of all commercial banks submitting information which shall become effective the following October 1st.

(3) All commercial bank depositories may be ranked in the first ranking by the Mayor pursuant to paragraph (2) of this subsection.

(4) Not less than 2 months prior to the deadline for the submission of bids for the placement of demand deposits, the Mayor shall solicit bids for the performance of those financial services set aside pursuant to paragraph (1) of this subsection from the 2 commercial banks ranked highest pursuant to paragraph (2) of this subsection and shall solicit bids from all commercial bank depositories for the remaining financial services. The solicitation shall request bids to provide financial services for 3 years. Contracts terminating prior to October 1, 1981, may be extended for periods not to exceed 1 year without competition.

(5) The bids submitted shall state the cost to the District in terms of both the payment for financial services and the maintenance of compensating balances. The bid solicitation may require bids on either single financial services or groups of financial services.

(6)(A) The award of the financial services set aside pursuant to paragraph (1) of this subsection and of those not set aside shall be made based on the lowest cost to the District; provided, however, that the cost to the District of specific financial services within the set-aside portion shall not exceed 175% of the cost to the District of identified financial services awarded on non-set-aside bids received in the same solicitation and; provided, further, that the Mayor shall select not less than 3 demand depositories for the District and shall deposit funds with those depositories according to the following timetable:

- (i) The first deposit within 180 days after October 26, 1977;
- (ii) The 2nd deposit within 270 days after October 26, 1977; and
- (iii) The 3rd deposit within 360 days after October 26, 1977.

(B) Of the above mentioned depositories at least 1 of the first 2 shall be a depository with a set-aside pursuant to paragraph (1) of this subsection.

(7) No award to a commercial bank may be made unless that bank's evaluation score pursuant to § 47-344(a) has increased by 5 percentage points in each evaluation category for each interval between rankings after the first ranking.

(8) In the event that 2 bids are identical the depository ranked highest pursuant to § 47-344(a) shall be given precedence for the award.

(d) *Scoring requirements.* — Notwithstanding any other provision of this section, no depository shall be required to exceed a score of 50% in each of the evaluation criteria in § 47-344(a).

(e) *Waiver.* — Subject to the requirements of subsection (f) of this section, the Mayor may waive the requirements of subsections (a) through (d) of this section, and invest or deposit funds or maintain existing investments or deposits in an eligible depository in order to maintain banking services in a low- and moderate-income area or a target banking development area. For the purposes of this subsection, "low- and moderate-income area" and "target banking development area" shall have the same meanings as in § 26-801.

(f) *Community Development Program.* — (1) Except as provided in paragraph (2) of this subsection, if, pursuant to subsection (e) of this section, the Mayor elects to waive the requirements of subsections (a) through (d) of this section, the Mayor and the eligible depository shall propose an agreement that includes a community development program which shall be executed by the Mayor after Council review pursuant to paragraph (3) of this subsection.

(2) If the eligible depository has an existing community development program, the depository shall submit information and data regarding the existing community development program to the Mayor. If the Mayor determines that the depository is meeting the objectives of the existing community development program, the Mayor shall, in lieu of the community development program requirement of paragraph (1) of this subsection, certify that the depository is meeting the objectives of the existing community development program.

(3) Within 90 days, excluding Saturdays, Sundays, legal holidays and days of Council recess, of the waiver pursuant to subsection (e) of this section, the Mayor shall submit the proposed agreement that includes a community development program, required pursuant to paragraph (1) of this subsection, or the certification, including the data and information regarding the existing community development program, required pursuant to paragraph (2) of this subsection, to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the proposed agreement that includes a community development program or the certification has not been submitted to the Council within the 90-day period, the Mayor may extend the period by an additional 30 days, excluding Saturdays, Sundays, holidays, and days of Council recess, by submitting written notice to the Council. If the

proposed agreement that includes a community development program or certification is not submitted within the 90-day period, or, if the Mayor extends the time, within the additional 30-day period, the Mayor shall withdraw the invested or deposited funds. If the Council does not approve or disapprove the proposed agreement that includes a community development program or the certification, in whole or in part, by resolution within the 45-day review period, the proposed agreement that includes the community development program or certification shall be deemed approved.

(4) For the purposes of this subsection, a community development program shall be guided by the requirements of § 26-804(d)(2) and (3). (1973 Ed., § 47-273; Oct. 26, 1977, D.C. Law 2-32, § 4, 24 DCR 3725; Mar. 4, 1981, D.C. Law 3-128, § 10, 28 DCR 246; Apr. 8, 1992, D.C. Law 9-91, § 2(a), 39 DCR 1365; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-316.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the District of Columbia Depository Act of 1977 Emergency Amendment Act of 1991 (D.C. Act 9-18, April 26, 1991, 38 DCR 2713).

For temporary amendment of section, see § 2(a) of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992 (D.C. Act 9-156, February 21, 1992, 39 DCR 1357). Section 4 of D.C. Act 9-156 provided that if any provision of sections 4(f) or 5(f) of the District of Columbia Depository Act of 1977, as added by section 2 of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992, or its application to any person or circumstance is held to be unconstitutional, beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, then all provisions of sections 4(e)-(f) and 5(e)-(f) of the District of Columbia Depository Act of 1977, as added by section 2 of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992, shall be deemed invalid.

For temporary repeal of D.C. Law 9-11, see § 3 of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992 (D.C. Act 9-156, February 21, 1992, 39 DCR 1357).

Legislative history of Law 2-32. — See note to § 47-341.

Legislative history of Law 3-128. — Law 3-128, the "Closing of a Portion of Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendment; and the District of Columbia Motor Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Acts of 1980," was introduced in Council and assigned Bill No. 3-394, which was

referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-11. — Law 9-11, the "District of Columbia Depository Act of 1977 Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-176. The Bill was adopted on first and second readings on April 9, 1991, and May 7, 1991, respectively. Signed by the Mayor on May 17, 1991, it was assigned Act No. 9-29 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-91. — Law 9-91, the "District of Columbia Depository Act of 1977 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-180, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on January 7, 1992, and February 4, 1992, respectively. Signed by the Mayor on February 21, 1992, it was assigned Act No. 9-159 and transmitted to both Houses of Congress for its review. D.C. Law 9-91 became effective on April 8, 1992.

Repeal of Law 9-11. — Section 3 of D.C. Law 9-91 repealed the District of Columbia Depository Act of 1977 Temporary Amendment Act of 1991 (D.C. Law 9-11).

Inseverability of Law 9-91. — Section 4 of D.C. Law 9-91 provided that if any provision of § 47-343(f) or § 47-344(f), as added by § 2 of the act, or its application to any person or circumstance is held to be unconstitutional, beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, then all provisions of §§ 47-343(e)-(f) and 47-344(e)-(f), as added by § 2 of the act, shall be deemed invalid.

§ 47-344. Ranking of depositories; qualifying loans; information required to bid.

(a) The ranking of depositories shall be made based on the average of the 6 following categories:

(1) Two year loan origination for qualifying loans, as defined in subsection (b) of this section, expressed as a percentage of total loans originated;

(2) Outstanding loans to an individual District resident or a business whose primary place of business is in the District expressed as a percentage of total deposits at the end of the previous calendar year;

(3) Employment practices expressing the average number of minority persons and women in management level positions and on the board of directors as a percentage of the total number of such positions and board seats, respectively, for an eligible depository during the previous calendar year;

(4) The total dollar amount of District of Columbia moderately-priced housing loans which were originated or purchased in the previous calendar year by each eligible depository, expressed as a percentage of the total dollar amount of housing loans originated or purchased in the previous calendar year by each eligible depository;

(5) The total dollar amount of District of Columbia small business loans which were originated or purchased in the previous calendar year by each eligible depository, expressed as a percentage of the total dollar amount of business loans originated or purchased in the previous calendar year by that eligible depository; and

(6) Women-ownership or certification as minority owned by the Minority Business Opportunity Commission in accordance with § 1-1141 et seq. For purposes of this paragraph the term "women-ownership" means that at least 51% of the business enterprise is owned by a woman or women who make policy decisions and actively manage the day-to-day operations.

(b) Qualifying loans shall be comprised of:

(1) All moderately-priced housing loans;

(2) All moderately-priced housing loans on houses priced at or below 80% of the median sales price for those houses in the District;

(3) All student loans;

(4) All small business loans;

(5) All installment credit loans;

(6) All moderately-priced multifamily housing loans;

(7) All obligations of the District;

(8) All eligible rehabilitation loans for a term of 10 years or longer;

(9) All eligible mortgage loans for moderately-priced housing or multifamily units for a term of 25 years or longer; and

(10) All eligible small business loans for 5 years or longer.

(c) Each eligible depository desiring to bid for the placement of District of Columbia funds shall submit the following information:

(1) The number and total dollar amount of mortgage loans which were originated or purchased by that institution during each fiscal year (beginning with the most recent fiscal year of that institution which immediately preceded October 8, 1981).

(2) The information required to be maintained and made available under paragraph (1) of this subsection shall also be itemized in order to disclose clearly the following:

(A) The number and dollar amount for each item referred to in paragraph (1) of this subsection by census tracts for all such mortgage loans secured by property located within the District of Columbia;

(B) The number and dollar amount for each item referred to in paragraph (1) of this subsection by county for all such mortgage loans which are secured by property located in states contiguous to the District of Columbia; and

(C) The number and dollar amount for each item referred to in paragraph (1) of this subsection by state or foreign country for all such mortgage loans which are secured by property located outside the District of Columbia or states contiguous to the District.

(3) Any item of information relating to mortgage loans required to be maintained under this subsection shall be further itemized in order to disclose for each such item:

(A) The number and dollar amount of mortgage loans which are insured under 12 U.S.C. § 1707 et seq., or under 42 U.S.C. § 1471 et seq., or are guaranteed under veterans benefit programs, codified in Chapter 37 of Title 38 of the United States Code;

(B) The number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(C) The number and dollar amount of home improvement loans.

(d) Each eligible depository desiring to bid for the placement of District of Columbia funds shall submit the following information:

(1) The number and total dollar amount of small business loans which were originated or purchased by that institution during each fiscal year (beginning with the most recent fiscal year of that institution which immediately preceded October 8, 1981);

(2) The information required to be maintained and made available under paragraph (1) of this subsection shall also be itemized in order to disclose the number and dollar amount for each item referred to in paragraph (1) of this subsection by census tract for all such small business loans where the principal place of business, for which the loan was acquired, is located within the District of Columbia; and

(3) Any item of information relating to small business loans required to be maintained under this subsection shall be further itemized in order to disclose the number and dollar amount of small business loans which are guaranteed by the Small Business Administration pursuant to 15 U.S.C. § 636.

(e) Subject to the requirements of subsection (f) of this section, the Mayor may waive the requirements of subsections (a) through (d) of this section in order to maintain banking services by an eligible depository in a low- and moderate-income area or a target banking development area. For the purposes of this subsection, "low- and moderate-income area" and "target banking development area" shall have the same meanings as in § 26-801.

(f)(1) Except as provided in paragraph (2) of this subsection, if, pursuant to subsection (e) of this section, the Mayor elects to waive the requirements of subsections (a) through (d) of this section, the Mayor and the eligible depository shall propose an agreement that includes a community development program which shall be executed by the Mayor after Council review pursuant to paragraph (3) of this subsection.

(2) If the eligible depository has an existing community development program, the depository shall submit information and data regarding the existing community development program to the Mayor. If the Mayor determines that the depository is meeting the objectives of the existing community development program, the Mayor shall, in lieu of the community development program requirement of paragraph (1) of this subsection, certify that the depository is meeting the objectives of the existing community development program.

(3) Within 90 days, excluding Saturdays, Sundays, legal holidays and days of Council recess, of the waiver pursuant to subsection (e) of this section, the Mayor shall submit the proposed agreement that includes a community development program, required pursuant to paragraph (1) of this subsection, or the certification, including the data and information regarding the existing community development program, required pursuant to paragraph (2) of this subsection, to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the proposed agreement that includes a community development program or the certification has not been submitted to the Council within the 90-day period, the Mayor may extend the period by an additional 30 days, excluding Saturdays, Sundays, holidays and days of Council recess, by submitting written notice to the Council. If the proposed agreement that includes a community development program or certification is not submitted within the 90-day period, or, if the Mayor extends the time, within the additional 30-day period, the Mayor shall withdraw the invested or deposited funds. If the Council does not approve or disapprove the proposed agreement that includes a community development program or the certification, in whole or in part, by resolution within the 45-day review period, the proposed agreement that includes a community development program or certification shall be deemed approved.

(4) For the purposes of this subsection, a community development program shall be guided by the requirements of § 26-804(d)(2) and (3). (1973 Ed., § 47-274; Oct. 26, 1977, D.C. Law 2-32, § 5, 24 DCR 3725; Oct. 8, 1981, D.C. Law 4-40, § 2(b), 28 DCR 3395; Mar. 16, 1989, D.C. Law 7-187, § 4, 35 DCR 8648; Apr. 8, 1992, D.C. Law 9-91, § 2(b), 39 DCR 1365; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-316 and 47-343.

Emergency act amendments. — For temporary amendment of section, see § 2(b) of the District of Columbia Depository Act of 1977 Emergency Amendment Act of 1991 (D.C. Act 9-18, April 26, 1991, 38 DCR 2713).

For temporary amendment of section, see

§ 2(b) of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992 (D.C. Act 9-156, February 21, 1992, 39 DCR 1357). Section 4 of D.C. Act 9-156 provided that if any provision of sections 4(f) or 5(f) of the District of Columbia Depository Act of 1977, as added by section 2 of the District of Columbia Depository Act of 1977 Agreement

Emergency Amendment Act of 1992, or its application to any person or circumstance is held to be unconstitutional, beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, then all provisions of sections 4(e)-(f) and 5(e)-(f) of the District of Columbia Depository Act of 1977, as added by section 2 of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992, shall be deemed invalid.

For temporary repeal of D.C. Law 9-11, see § 3 of the District of Columbia Depository Act of 1977 Agreement Emergency Amendment Act of 1992 (D.C. Act 9-156, February 21, 1992, 39 DCR 1357).

Legislative history of Law 2-32. — See note to § 47-341.

Legislative history of Law 4-40. — See note to § 47-341.

Legislative history of Law 7-187. — Law 7-187 was introduced in Council and assigned Bill No. 7-471, which was referred to the Committee on Housing and Economic Development.

The Bill was adopted on first and second readings on October 25, 1988 and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-249 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-11. — See note to § 47-343.

Legislative history of Law 9-91. — See note to § 47-343.

Repeal of Law 9-11. — Section 3 of D.C. Law 9-91 repealed the District of Columbia Depository Act of 1977 Temporary Amendment Act of 1991 (D.C. Law 9-11).

Inseverability of Law 9-91. — Section 4 of D.C. Law 9-91 provided that if any provision of § 47-343(f) or § 47-344(f), as added by § 2 of the act, or its application to any person or circumstance is held to be unconstitutional, beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, then all provisions of §§ 47-343(e)-(f) and 47-344(e)-(f), as added by § 2 of the act, shall be deemed invalid.

§ 47-345. Limitation on amount.

Notwithstanding any other provision of this subchapter, no depository shall at any time have on deposit public funds in an amount exceeding the lesser of:

(1) An amount equal to 25% of the total assets, exclusive of public funds, of such depository; or

(2) An amount equal to 25% of the total public funds of the District on/or available for deposit during the fiscal year. (1973 Ed., § 47-275; Oct. 26, 1977, D.C. Law 2-32, § 6, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-316 and 47-346.

Legislative history of Law 2-32. — See note to § 47-341.

§ 47-345.1. Cashing government checks of District residents required.

Each eligible depository selected for the placement of District of Columbia funds shall be required to cash welfare and all other government checks of District residents upon a showing of proper identification. "Proper identification", as used in this section, means any pictorial identification issued by any District of Columbia government agency, including the Department of Transportation. (Oct. 8, 1981, D.C. Law 4-40, § 2(c), 28 DCR 3395; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-40. — See note to § 47-341.

Transfer of functions. — The functions of the Department of Transportation were trans-

ferred to the Department of Public Works by Reorganization Plan No.4 of 1983, effective March 1, 1984.

§ 47-346. Required collateral and financial information.

(a) No collateral shall be required for any deposit to the extent that the deposit is fully insured by an agency of the United States government, but if required the collateral shall be received by the Mayor at the close of the business day on which the deposit is made.

(b) Any public funds on deposit in excess of the amount insured by any agency of the federal government shall be fully secured by:

(1) Obligations issued and fully insured or guaranteed by the United States or any United States government agency and obligations of government sponsored corporations which under specific statute may be accepted as security for public funds at market value or par value, whichever is lower, at the close of business on the day previous to their placement as collateral; and

(2) Obligations insured or guaranteed by an agency of the United States government or a District agency at a value equal to the amount of the insurance or guarantee; provided, that insured mortgages shall be secured by property located in the District.

(c) Each eligible depository shall submit with its bid the financial information and reports the Mayor determines are necessary to evaluate the condition of each eligible depository; provided, that no eligible depository shall be required to submit information and reports not made public under federal regulations. Depositories shall keep current the information required to be submitted under this subsection and shall immediately notify the Mayor of any change which causes deposits to exceed the limitation in § 47-345.

(d) No depository shall be entitled to the return of collateral except upon the repayment of the public funds on deposit with such depository; provided, however, that any depository may, with the approval of the Mayor, substitute different and acceptable collateral of the type specified in subsection (b) of this section.

(e) Upon the insolvency or default of any depository, the District shall be entitled to such of the collateral as may be necessary to recover all public funds on deposit with such depository, net of such public funds as may be fully insured by an agency of the federal government. Each depository shall, at the time of the deposit of collateral, deliver to the Mayor a power of attorney authorizing him or her to transfer any securities or any part thereof for the purpose of repaying any deposit made under this subchapter.

(f) Nothing in this section shall be construed as limiting any right of the District to share in any distribution of the assets of any depository to the extent that the public funds on deposit at the time of the depository's default or insolvency exceed the net proceeds of the collateral. (1973 Ed., § 47-276; Oct. 26, 1977, D.C. Law 2-32, § 7, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-316 and 47-342.

Legislative history of Law 2-32. — See note to § 47-341.

§ 47-347. Public disclosure of certain information; required reports by depositories and Mayor.

(a) All bids and information submitted by eligible depositories to the Mayor pursuant to this subchapter shall also be submitted to the Office of the District of Columbia Auditor.

(b) All such bids and information shall be available for public inspection and reproduction during regular working hours at the offices of the Mayor and the District of Columbia Auditor.

(c) Within 10 days after the last day of each calendar month and wherever requested by the Mayor or the District of Columbia Auditor, each depository receiving public funds shall submit to the Mayor and to the Office of the District of Columbia Auditor a written report, under oath, indicating:

(1) The total amount of public funds held by it at the close of business on the last banking day in the month;

(2) The average daily balance for the month of all public funds held by it during the month;

(3) A detailed schedule of pledged collateral at its value for the purpose of collateral at the close of business on the last banking day in the month; and

(4) Any other information that may be required by the Mayor with respect to public funds.

(d) The Mayor shall quarterly report to the Council concerning which depositories hold public funds, the amounts of public funds, and the interest dividend rate bid for each individual depository.

(e) The Mayor shall have available for public inspection the free balances and short-term investments at the close of business on the previous day.

(f) The Mayor shall identify investments of pension fund assets. (1973 Ed., § 47-277; Oct. 26, 1977, D.C. Law 2-32, § 8, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-316.

Legislative history of Law 2-32. — See note to § 47-341.

§ 47-348. Termination of depositories or refusal of contracts; immediate withdrawal.

(a) Any depository which misrepresents any material information required to be submitted pursuant to this subchapter shall be terminated as a depository by the Mayor and shall be ineligible as a depository for public funds for a period of not less than 2 years.

(b) Any demand depository which is unable to provide financial services pursuant to its contract or bid shall be terminated or refused a contract as a demand depository by the Mayor.

(c) The Mayor shall, prior to terminating or refusing a contract pursuant to this section, provide the affected depository and the Office of the District of Columbia Auditor with the following written information:

(1) The proposed date of the termination or refusal;

(2) The specific reason for the termination or refusal; and

(3) The right of the affected depository to appeal the proposed termination or refusal to the Board of Appeals and Review within 1 week of receipt by that depository of the notice to terminate or the refusal.

(d) The Mayor may, upon a written determination that the interests of the District require the immediate withdrawal of public funds, withdraw the public funds immediately after a proper notice is submitted to the affected depository and the Office of the District of Columbia Auditor.

(e) After receiving notice of a withdrawal under subsection (d) of this section, the affected depository is entitled to a hearing by the Board of Appeals and Review within 3 days following receipt of such notice (exclusive of Saturdays, Sundays and holidays and of any continuance(s) which may be requested by such depository). Any notice of an immediate withdrawal shall state clearly the right of the affected depository to have a hearing by the Board of Appeals and Review within 3 business days following the receipt of such notice.

(f) The District of Columbia Auditor may intervene, as an independent party to the dispute, in any hearing before the Board of Appeals and Review concerning any dispute between the Mayor and a depository. (1973 Ed., § 47-278; Oct. 26, 1977, D.C. Law 2-32, § 9, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-316.

Legislative history of Law 2-32. — See note to § 47-341.

Amendment of Organization Order No. 112, establishing Board of Appeals and view. — See Mayor's Order 84-31, February 9, 1984.

§ 47-349. Powers of Mayor and District of Columbia Auditor; accountability of Auditor.

(a) The Mayor and the District of Columbia Auditor are authorized to:

(1) Make and enforce regulations necessary and proper to the full and complete performance of his or her respective functions under this subchapter;

(2) Inspect and reproduce all information and documents in the possession of a depository necessary to determine compliance with and to the enforcement of this subchapter; and

(3) Perform such duties and responsibilities as may be required by this subchapter.

(b) The District of Columbia Auditor shall be directly accountable to the Council, through its Committee on Employment and Economic Development, for the purpose of reporting on the implementation of this subchapter; provided, that the District of Columbia Auditor shall prepare and submit to the Council an annual report on the District's depository activities including the ranking of each institution submitting bids for the deposit of public funds. (1973 Ed., § 47-279; Oct. 26, 1977, D.C. Law 2-32, § 10, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-316.

Legislative history of Law 2-32. — See note to § 47-341.

§ 47-350. Authorized staff for District of Columbia Auditor and Committee on Employment and Economic Development.

(a) The Office of the District of Columbia Auditor is authorized 2 positions to carry out the purposes of this subchapter, together with the necessary supporting facilities.

(b) The Committee on Employment and Economic Development is authorized 2 staff positions for the purposes of coordinating the implementation of this subchapter with the Office of the District of Columbia Auditor and of assuming the responsibilities specified in this subchapter. (1973 Ed., § 47-280; Oct. 26, 1977, D.C. Law 2-32, § 11, 24 DCR 3725; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-32. — See note to § 47-341.

Subchapter IV. Reprogramming Policy.

§ 47-361. Definitions.

As used in this subchapter, the term:

(1) “Agency” means the highest organizational structure of the District of Columbia government at which budgeting data is aggregated.

(2) “Appropriated budget authority” means authorization by an act of the Congress that permits the District of Columbia government to incur obligations and make payments for specific purposes against funds included in the annual appropriations act for the District of Columbia.

(2a) “Budget category” includes control centers and responsibility centers.

(3) “Control center” means the organizational authority subject to approval by Congress in the annual appropriations act for the District of Columbia.

(4) “Council” means the Council of the District of Columbia.

(5) “Gross-obligation budget” means budget authority from all sources of funding.

(6) “Non-appropriated budget authority” means the ability of the District of Columbia government to incur obligations and make payments for specified purposes against funds which are not subject to approval by the Congress in the annual appropriations act for the District of Columbia.

(7) “Non-offsetting” means an increase or decrease that occurs in the gross-obligation budget or in the appropriated budget authority.

(8) “Offsetting” means an increase that is matched by a decrease such that no change occurs in the gross-obligation budget or in the appropriated budget authority.

(9) “Reprogramming” means any budget modification which results in an offsetting reallocation of funds from 1 budget category to another, for purposes other than those originally planned.

(10) “Responsibility center” means the organizational component below the control center level. (Sept. 16, 1980, D.C. Law 3-100, § 2, 27 DCR 3617;

Apr. 3, 1984, D.C. Law 5-70, § 2(a), 31 DCR 628; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-100. — Law 3-100, the “Reprogramming Policy Act of 1980,” was introduced in Council and assigned Bill No. 3-298, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 16, 1980, it was assigned Act No. 3-222 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-70. — Law 5-70 was introduced in Council and assigned Bill No. 5-237, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 3, 1984 and January 17, 1984, respectively. Signed by the Mayor on February 7, 1984, it was assigned

Act No. 5-105 and transmitted to both Houses of Congress for its review.

Appropriations authorized for reprogramming. — Section 118 of Pub. L. 102-382, 106 Stat. 1432, the District of Columbia Appropriations Act, 1993, provided that none of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriations Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with § 47-361 et seq.

§ 47-362. Policies enumerated.

(a) A reprogramming shall be used only when an unforeseen situation develops, and then only if postponement until the next appropriations cycle would result in a serious hardship in the management of the City.

(b) Reprogrammings shall not be used to establish new programs or to change allocations specifically denied, limited, or increased by the Council in the budget act, or the accompanying budget report or mark-up sheets.

(c) Any program or project deferred through reprogramming shall not be later accomplished by means of further reprogramming. Funding for such section shall await the regular budget request.

(d) Should unusual circumstances require changes to the policies included in subsections (a) through (c) of this section, proposals shall be submitted to the Council for approval regardless of the dollar amount involved. (Sept. 16, 1980, D.C. Law 3-100, § 3, 27 DCR 3617; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-100. — See note to § 47-361.

§ 47-363. Council approval for reprogramming requests for appropriated or estimated non-appropriated authorities; procedure; monthly reprogramming summary; exclusions.

(a) The Mayor shall submit to the Council for approval any reprogramming request(s) which individually or on a cumulative basis would result in a change to the original appropriated or estimated non-appropriated authority of any responsibility center of more than \$400,000 or 10% (whichever is less) of the original appropriated or estimated non-appropriated authority in any fiscal year; provided, however, that Council approval shall not be required for any reprogramming of up to \$25,000. Council approval is required for any subse-

quent reprogrammings which individually or considered on a cumulative basis would result in additional changes of more than \$100,000 or 10% (whichever is less) of the original appropriated or estimated non-appropriated authority of any responsibility center.

(a-1)(1) The Mayor shall also submit reprogramming requests to the District of Columbia Financial Responsibility and Management Assistance Authority as required by § 47-392.3(c)(1).

(2) The Council may only approve a reprogramming submitted by the Mayor to the Council pursuant to the provisions of this section and § 47-392.3(c)(2).

(b) The Mayor shall submit to the Council for approval any shift(s) in funding among object categories within the same responsibility center which individually exceed \$50,000 in any fiscal year. Council approval is required for any subsequent actions which individually would move funds in excess of \$50,000 among object categories within the same responsibility center in any fiscal year.

(c) The Mayor shall submit to the Council for approval any reprogramming request(s) which individually or considered on a cumulative basis would result in a movement of funds from 1 capital project to another of more than \$25,000 in any fiscal year.

(d) Notwithstanding the provisions of subsections (a) through (c) of this section, the Mayor shall submit to the Council for approval any reprogramming request(s) which individually or considered on a cumulative basis would result in change to the original appropriated or estimated non-appropriated authority of any responsibility or control centers within the Department of Human Services, by more than \$50,000 in any fiscal year. Additional Council approval shall be required for additional reprogrammings which individually or considered on a cumulative basis would result in additional changes of more than \$50,000 to the original appropriated or estimated non-appropriated authority of any responsibility centers within the Department of Human Services.

(e)(1) The Mayor shall transmit reprogramming requests as provided in subsections (a), (b), (c), and (d) of this section and requests pursuant to § 47-364(a) to the Chairman of the Council, who shall immediately circulate the requests to the members of the Council.

(2) The Council shall consider the request(s) according to its rules. Should no written notice of disapproval of such request(s) be filed with the Secretary to the Council within 14 calendar days of the receipt of a request from the Mayor, or no oral notice of disapproval is given during a meeting of the Council during such 14 calendar day period, the request shall be deemed to be approved. Should notice of disapproval be given during such initial 14-calendar day period, the Council may approve or disapprove the reprogramming request by resolution within 30 calendar days of the initial receipt of the request from the Mayor, or such request shall be deemed to be approved.

(3) No request may be submitted to the Chairman of the Council under this subsection during such time as the Council is on recess, according to its rules, nor shall any time period provided in this subsection or in the Council's

rules with respect to the requests continue to run during such time as the Council is on recess.

(4)(A) Upon receipt of a reprogramming request submitted pursuant to this subchapter, the Chairman of the Council shall cause a “notice of a reprogramming request” to be published in the District of Columbia Register, together with a statement that the request will be deemed approved 14 days from the date of its receipt unless a “notice of disapproval” has been filed prior to that time by any member of the Council, and if such “notice of disapproval” has been filed, that the request will be deemed approved 30 days from the date of the receipt of the reprogramming request unless prior to that time the Council has adopted a resolution of disapproval or approval.

(B) The publication of the “notice of a reprogramming request” pursuant to subparagraph (A) of this paragraph shall satisfy the public notice requirements of this section and the rules of the Council and no further notice shall be necessary for the Council to adopt a resolution affecting the reprogramming request.

(5) At any time prior to final action by the Council on a reprogramming request submitted pursuant to this subchapter, or prior to a reprogramming becoming effective without Council action as provided in this subchapter, the Mayor may withdraw the reprogramming request.

(e-1) Reprogrammings transmitted to the Council pursuant to subsections (a), (b), (c), and (e) of this section shall include a specific listing of responsibility centers and control centers, or both, from which funds are being reduced and a specific listing of responsibility centers and control centers, or both, to which funds are being added. Each separate reprogramming request shall be for the total net sum of zero dollars.

(f) If the Council disapproves a reprogramming request the Mayor may, on a clear showing of changed circumstances, new information, or additional administrative hardship, ask for a reconsideration of the previous action of the Council. The Council may at its discretion reconsider its previous action.

(g) All reprogrammings which occur, regardless of amount, shall be reported by the Mayor to the Council on a monthly basis. A monthly reprogramming summary shall set forth clearly and concisely each reprogramming activity by original object category and new object category. It shall specify the amount of funds shifted and other consequences where appropriate (such as personnel shifts, equipment transfers, etc.). The monthly reprogramming summary shall also include a brief explanation of the administrative necessity that was served by the reprogramming activity. The Mayor shall be responsible for assembling and transmitting the monthly reprogramming summary. The Council committee staff responsible for the budget process shall receive and analyze the monthly reprogramming summary.

(h) The District of Columbia Board of Education, the District of Columbia courts, and the Board of Trustees of the University of the District of Columbia shall be excluded for appropriated authority and the District of Columbia Board of Education, the District of Columbia courts, the Board of Trustees of the University of the District of Columbia and the D.C. General Hospital Commission for estimated non-appropriated authority shall be excluded from

the provisions of this section; provided, that reprogramming requests in excess of \$50,000 at the control center level shall be submitted to the Mayor and the Council for review and comment prior to their transmittal to the Congress. (Sept. 16, 1980, D.C. Law 3-100, § 4, 27 DCR 3617; Apr. 30, 1982, D.C. Law 4-106, § 2, 29 DCR 1407; Apr. 3, 1984, D.C. Law 5-70, § 2(b), 31 DCR 628; Apr. 30, 1988, D.C. Law 7-104, § 34, 35 DCR 147; Apr. 18, 1996, D.C. Law 11-110, § 52, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to powers and duties of D.C. General Hospital Commission, see § 32-220.

Effect of amendments. — D.C. Law 11-110 inserted (a-1).

Legislative history of Law 3-100. — See note to § 47-361.

Legislative history of Law 4-106. — Law 4-106, the “Reprogramming Policy Act of 1980 Amendments Act of 1982,” was introduced in Council and assigned Bill No. 4-343, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 9, 1982, and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-167 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-70. — See note to § 47-361.

Legislative history of Law 7-104. — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5,

1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

References in text. — Section 47-364(a), which is referred to in (e)(1), was repealed by 109 Stat. 142, Pub. L. 104-8, § 301(b)(2), approved April 17, 1995.

Allocation of Funds from the Rainy Day Fund to the Washington Convention Center Fund and the Starplex Fund Conditional Approval Resolution of 1994. — Pursuant to Resolution 10-453, effective November 1, 1994, the Council conditionally approved the transfer of funds from the Rainy Day Fund to the Washington Convention Center Fund and the Starplex Fund.

Approval of Reprogramming from Governmental Direction and Support Agencies to the Department of Administrative Services Emergency Resolution of 1995. — Pursuant to Resolution 11-82, effective June 6, 1995, the Council approved, on an emergency basis, the reprogramming, within the Congressionally-approved Fiscal Year 1995 appropriation for Governmental Direction and Support, of \$2.9 million from the Offices of the City Administrator, Secretary, Communications, Intergovernmental Relations, Deputy Mayor for Finance and Budget, the Department of Finance and Revenue, within the Department of Administrative Services, and the Board of Elections and Ethics, to the Department of Administrative Services.

§ 47-364. Council approval of non-offsetting budget modifications; exclusions.

Repealed. Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(b)(2).

Section references. — This section is referred to in § 47-363.

*Subchapter V. Fund Accounting.***§ 47-371. Findings.**

The Council of the District of Columbia finds that:

(1) The diversity of governmental functions, activities, and programs requires that they be accounted for in several different funds and that the funds represent separate accounting entities;

(2) The number of funds should be kept to the minimum necessary for sound financial administration;

(3) The financial information and reporting needs can vary depending on the specific requirements of agency management, the Mayor, the Council, grantors, and the public;

(4) Change is increasingly a major factor in governmental accounting and reporting and the District must be capable of responding to these changes;

(5) Control and accountability over District resources is a primary function of all public officials and employees; and that the Mayor under § 47-310(a)(2) has the authority and responsibility for monitoring systems of accounting;

(6) The financial accounting of the District and the systems supporting this accounting must provide for timely, accurate, and full and complete financial disclosure;

(7) The fund structure and the financial systems and related accounting policies, practices, and procedures must provide information to demonstrate compliance with applicable laws and administrative regulations and enable the District to report its financial activities in accordance with generally accepted accounting principles;

(8) Section 47-119(a) requires that for the fiscal year beginning October 1, 1979, that financial statements should be prepared in accordance with generally accepted accounting principles;

(9) As an outgrowth of the study and activities of the Temporary Commission on Financial Oversight of the District of Columbia, a proposed fund structure for the District has been recommended that will provide a modern financial systems base for sound financial management of the District, and preparation of financial statements in accordance with generally accepted accounting principles;

(10) The said system requires certain changes in the current fund structure of the District of Columbia; and

(11) The Council intends to adopt said fund structure and policies in order to respond to change and meet the information needs of the various users of financial information to assist the Mayor to design, implement and operate the financial systems and policies, procedures, practices and controls necessary for the sound financial management and administration of the District in a manner consistent with generally accepted accounting principles. (June 14, 1980, D.C. Law 3-70, § 2, 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-70. — Law 3-70, the “District of Columbia Fund Accounting Act of 1980,” was introduced in Council and assigned Bill No. 3-197, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively.

Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-372. Definitions.

For purposes of this subchapter:

- (1) The term “Mayor” means the Mayor of the District of Columbia.
- (2) The term “Council” means the Council of the District of Columbia.
- (3) The term “fund” means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.
- (4) The term “fund type” means grouping or classification of funds of similar character or purpose.
- (5) The term “fund category” means groupings or classifications of fund types of similar character or purpose.
- (6) The term “account group” means a grouping of accounts as provided in § 47-373(3).
- (7) The term “fixed asset” means capitalized, tangible, long-lived assets which are of significant value. General fixed assets are District fixed assets not recorded in a specific fund.
- (8) The term “generally accepted accounting principles” (GAAP) means uniform minimum standards of or guidelines to financial accounting and reporting which are promulgated by recognized authoritative accounting organizations or entities, such as, but not limited to, the Financial Accounting Standards Board (FASB) and predecessor organizations, the American Institute of Certified Public Accountants (AICPA), the National Council on Government Accounting (NCGA), the Securities and Exchange Commission (SEC) and the Comptroller General of the United States. (June 14, 1980, D.C. Law 3-70, § 3, 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-70. — See Elections & Ethics, App. D.C., 601 A.2d 3 note to § 47-371.

Cited in *Hessey v. District of Columbia Bd. of*

Elections & Ethics, App. D.C., 601 A.2d 3 (1991).

§ 47-373. Organization of fund structure.

Effective October 1, 1979, for purposes of accounting and financial reporting the District of Columbia shall utilize a fund structure organized into the following fund categories, fund types, and account groups:

(1) *Fund categories.* — All funds of the District of Columbia shall be classified and maintained by the Mayor into 1 of the following 3 categories:

(A) *Governmental funds.* — These funds shall be composed of accounts for the acquisition, use, and balance of the District’s expendable financial

resources and the related current liabilities except those funds accounted for in proprietary funds. The governmental fund category shall include the following fund types:

- (i) General;
- (ii) Capital projects; and
- (iii) Debt service;

(B) *Proprietary funds*. — These funds shall be composed of activities which are intended to be monitored in a manner similar to those found in the private sector. The assets, liabilities, equities, revenues, expenses, and transfers shall be separately accounted for in such fund and be maintained separately from the General Fund of the District of Columbia in accordance with the legal requirements applicable to such fund or in accordance with generally accepted accounting principles applicable to such funds. The following fund types shall be considered proprietary funds:

- (i) Enterprise funds;
- (ii) Municipal University Fund;
- (iii) Internal services funds;
- (iv) Hospital Fund;
- (v) Material fund;
- (vi) Antitrust fund; and
- (vii) Tenant Assistance Program;

(C) *Fiduciary funds*. — These funds shall consist of assets held by the District of Columbia in a trustee capacity or as an agent for individuals, private organizations, other governmental units or for similar types of purposes. This category shall include the following fund types:

- (i) Trust funds; and
- (ii) Agency funds.

(2) *Fund types*. — The Mayor shall maintain 9 fund types within the fund categories established in paragraph (1) of this section as follows:

(A) General Fund to account for all financial resources except those required to be accounted for in another fund;

(B) Capital projects funds to account for financial resources used for the acquisition or construction of major capital facilities other than those financed by proprietary or fiduciary funds;

(C) Debt service funds to account for the accumulation of resources for, and the payment of, interest and principal on general long-term debt;

(D) Enterprise funds to account for operations that are financed and operated in a manner similar to private business enterprises; or where it has been determined that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance public policy, management control, accountability, or other purposes;

(E) Internal service funds to account for the financing of goods or services provided by the fund to other departments, agencies or funds of the District, or to other governmental units, on a cost-reimbursement or fee for services basis;

(F) Municipal University Fund to account for the functions and activities of the University of the District of Columbia and its constituent funds;

(G) Hospital Fund to account for the function and activities of the D.C. General Hospital;

(H) Trust funds to account for assets held by the District in a trustee capacity or as an agent for individuals, private organizations, other government units, and/or other funds of a similar nature;

(I) Agency funds to account for assets held by the District in a custodial capacity as an agent for individuals, private organizations, other government units, and/or funds of a similar nature; and

(J) Antitrust fund to account for the investigation, preparation, institution, and maintenance of antitrust actions by the District of Columbia government.

(3) *Account groups.* — The Mayor shall maintain 2 account groups, the general fixed asset group of accounts and the general long-term debt group of accounts, to establish account control and accountability for the District's general fixed assets not accounted for in a specific fund and the unmatured principal of its general obligation long-term debt and any other non-current liabilities of the District not accounted for in a specific fund:

(A) The general fixed asset group of accounts shall be used to record the District's capitalized general fixed assets which are not recorded in proprietary or fiduciary funds. Fixed assets related to specific proprietary funds or fiduciary funds will be accounted for through those funds; and

(B) The general long-term debt group of accounts shall be used to record the unmatured principal of general obligations long-term debt and any other non-current general long-term liabilities which are not recorded in another proprietary or fiduciary fund. Non-current liabilities of proprietary funds and fiduciary funds will be accounted for through those funds. (June 14, 1980, D.C. Law 3-70, § 4, 27 DCR 1776; Aug. 22, 1980, D.C. Law 3-82, § 4, 27 DCR 2647; Mar. 5, 1981, D.C. Law 3-169, § 3(b), 27 DCR 5368; Oct. 2, 1987, D.C. Law 7-30, § 6, 34 DCR 5304; Dec. 10, 1987, D.C. Law 7-48, § 5, 34 DCR 6851; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Metrorail/Metrobus Account in General Fund, see § 1-2466.

As to accounting for revenues and expenses of pollutant removal, and available funds for future years, see § 6-929.

As to Driver Education Program Fund, see § 40-301.1.

As to Office of the People's Counsel Agency Fund, see § 43-612.

As to Cable Television Fund, see § 43-1807.1.

Section references. — This section is referred to in §§ 9-402, 40-301.1, 43-1807.1, and 47-372.

Temporary amendment of section. — Section 5 of D.C. Law 7-48 added paragraph (1)(B)(vii). Section 6(b) of D.C. Law 7-48 provided that the act shall expire on the 225th day of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 5 of the Tenant Assistance Program Amendment Emer-

gency Act of 1987 (D.C. Act 7-57, July 1, 1987, 34 DCR 5293).

Legislative history of Law 3-70. — See note to § 47-371.

Legislative history of Law 3-82. — Law 3-82, the "Educational Policy Amendments Act of 1980," was introduced in Council and assigned Bill No. 3-3, which was referred to the Committee of the Whole. The Bill was adopted on first, amended first and second readings on April 22, 1980, May 6, 1980, and May 20, 1980, respectively. Signed by the Mayor on June 12, 1980, it was assigned Act No. 3-196 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-169. — Law 3-169, the "District of Columbia Antitrust Act of 1980," was introduced in Council and assigned Bill No. 3-107, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 28, 1980 and November 12, 1980, respectively.

Signed by the Mayor on November 25, 1980, it was assigned Act No. 3-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-30. — Law 7-30, the “Tenant Assistance Program and Rental Housing Commission Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-226, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 21, 1987, it was assigned Act No. 7-58 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-48. — Law 7-48, the “Tenant Assistance Program Amendment Temporary Act of 1987,” was introduced

in Council and assigned Bill No. 7-293, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 14, 1987 and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-81 and transmitted to both Houses of Congress for its review.

Restriction on moneys borrowed for capital projects. — Section 120 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided that the Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991).

§ 47-374. Accepted accounting principles to be followed.

(a) Beginning October 1, 1979, the District will account for and report on, unless specifically noted in financial reports, its financial transactions in accordance with generally accepted accounting principles.

(b) The systems, procedures, and controls established by the Mayor shall permit the District to demonstrate and report on compliance with legal requirements and contractual agreements as well as generally accepted accounting principles. (June 14, 1980, D.C. Law 3-70, § 5, 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-70. — See note to § 47-371.

§ 47-375. Duties of Mayor.

(a) The Mayor shall be responsible for the future classification of any funds and accounts within the appropriate fund types and fund categories as set forth in this subchapter.

(b) Classification by the Mayor shall be consistent with generally accepted accounting principles.

(c) The Mayor shall furnish the Council notice of his or her classification at the time of the submission of the annual budget for the District of Columbia government as provided in § 47-301(a).

(d) The Mayor, pursuant to §§ 47-305, 47-310, and 47-312, shall be responsible for developing and implementing appropriate accounting policies and procedures to carry out the purposes of this subchapter, including all steps necessary to establish the systems and internal procedures and controls necessary to assure proper application of the policies and procedures and appropriate proceedings for monitoring such system.

(e) The financial statement submitted by the Mayor to the Council pursuant to § 47-310(a)(4) shall identify any changes in accounting principles and policies followed by the District, the reasons therefore, and the practical effect of the changes.

(f) To the maximum extent possible, common terminology and classifications will be used in the budgeting, accounting and reporting process.

(g) The Mayor is authorized to establish for accounting and financial reporting purposes a Water and Sewer Enterprise Fund in accordance with generally accepted accounting principles.

(h) The enumeration contained in this section shall not be construed so as to limit the Mayor's authority with respect to classification and establishment of appropriate accounting procedures for other funds or accounts not specifically referenced.

(i) Nothing contained in the Revenue Funds Availability Act of 1975 shall prevent the Mayor from accounting for revenues and expenditures in accordance with generally accepted accounting principles. (June 14, 1980, D.C. Law 3-70, §§ 6, 7(h)-(j), 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Crime Victims' Compensation Fund, see § 3-413.

Section references. — This section is referred to in §§ 3-413, 35-2114, 43-1529, and 43-1677.

Legislative history of Law 3-70. — See note to § 47-371.

References in text. — The Revenue Funds Availability Act of 1975, referred to in subsection (i) of this section, is D.C. Law 1-42.

§ 47-376. Construction of subchapter.

(a) Nothing in this subchapter shall be construed as impinging upon or otherwise superseding the authority otherwise vested by law in independent agencies or instrumentalities of the District of Columbia.

(b) Nothing in this subchapter shall be construed to prohibit the Mayor from establishing accounts within funds, to the same extent that he or she was authorized prior to the passage of this subchapter.

(c) The Mayor shall promptly advise the Council on any changes in the financial management system required pursuant to § 2 of an Act to provide for an independent audit of the financial condition of the government of the District of Columbia. (June 14, 1980, D.C. Law 3-70, § 8, 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-70. — See note to § 47-371.

References in text. — The Act referred to in subsection (c) of this section is 90 Stat. 1205,

Pub. L. 94-399, approved September 4, 1976, which established the Temporary Commission on Financial Oversight of the District of Columbia.

§ 47-377. Financial obligations of District.

The Mayor is authorized to establish such systems as may be required for the accounting and certification of financial obligations of the District of Columbia government and may, through delegations and designations of District government officials and agencies (identified by name in the District of Columbia Register prior to such delegation or designation), provide for the decentralized audit and approval before payment of bills, invoices, payrolls, and other evidence of claims, demands, or charges against the District of Columbia government. (June 14, 1980, D.C. Law 3-70, § 9, 27 DCR 1776; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-70. — See note to § 47-371.

Subchapter VI. Funds Control.

§ 47-381. Findings.

The Council of the District of Columbia finds:

(1) That there exists a public perception that the District budget approved by the Council, after considerable careful public examination, is the plan which determines the manner in which District funds will be spent;

(2) That the District's new financial management system, which became operative in fiscal year 1980, provides the Council a new level of budget information;

(3) That questions remain in regard to the role of the Council with respect to ongoing oversight and control of the District budget;

(4) That a large portion of the District's annual expenditures are funded by grants from the federal government and private sources. Although these grant funds are a major portion of the District's program process, to a great extent, planning and allocation of these funds are without public participation through the legislative process;

(5) That under the District's new financial management system, the Council will be excluded from approval or review of federal grant funds to District agencies;

(6) That the District does not have a legislative process to address and control all city expenditures from all revenue sources; and

(7) That there is a need to clearly define the continuing role of the Council in the budget process in order to resolve those questions critical to the shaping of public policy and the prudent management of publicly entrusted tax dollars. (Sept. 16, 1980, D.C. Law 3-104, § 2, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — Law 3-104, the "District of Columbia Funds Control Act of 1980," was introduced in Council and assigned Bill No. 3-169, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June

17, 1980 and July 1, 1980, respectively. Disapproved by the Mayor on July 22, 1980, but re-enacted on July 29, 1980, it was assigned Act No. 3-229 and transmitted to both Houses of Congress for its review.

§ 47-382. Definitions.

For the purposes of this subchapter, the term:

(1) "Agency" means the highest organizational structure of the District at which budgeting data is aggregated.

(2) "Control budget" means the mechanism for the implementation and execution of the District obligational and revenue activities for any given fiscal year.

(3) "Control center" means 1 or more responsibility centers aggregated for financial controls purposes.

(4) "Council" means the Council of the District of Columbia.

(5) "Days" means calendar days.

(6) "District" means the District of Columbia government.

(7) "Formula grant" means any grant which allocates federal funds to the District in accordance with distribution formulas prescribed by law for activities of a continuing nature not confined to a specific project.

(8) "Grant" or "grant funds" means all grants-in-aid, block grants, reimbursements, including reimbursement for indirect costs, or other similar programs, the funds, or budgetary authority for which are provided by the federal government, other than through appropriation of revenue funds or any fund required by act of Congress to be treated as a local revenue. The term "grant funds" also includes any private funds voluntarily donated to the District and accepted by it for a specific purpose not connected with the payment of a tax, fee, charge, or other similar legal obligation.

(9) "Grant-making agency" means the federal government or private source of grant funds.

(10) "Gross planning budget" means the planning budget of the District including all anticipated revenue irrespective of source, and all planned expenditures presented at the responsibility center level of detail.

(11) "Non-appropriated budget authority" means the authority of the District to incur obligations and make payments for specified purposes against funds which are not subject to approval by the Congress in the annual appropriations act for the District.

(12) "Responsibility center" means the primary level at which a budget is established for financial control purposes.

(13) "Revenue funds" means all funds derived from taxes, fees, charges, miscellaneous receipts, annual federal payments to the District authorized by law, funds derived from the sale of bonds which are general obligations of the District, general revenue sharing funds, or any other funds which are not grant funds as defined by this subchapter.

(14) "State plan" means any plan or revision thereto other than an application to be filed with and approved by a grantor as a condition of receiving grant funds. (Sept. 16, 1980, D.C. Law 3-104, § 3, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-383. Grant application procedure.

(a) All grant applications shall be prepared in the name of the government of the District of Columbia. Any agency, other than those referred to in subsection (b) of this section, which desires to receive grant funds or submit a state plan shall request approval by the Mayor subject to regulations issued by the Mayor in accordance with the provisions of § 1-1506.

(b) The Trustees of the University of the District of Columbia, the Board of Education, the D.C. General Hospital Commission, the District of Columbia Court of Appeals, the District of Columbia court system, the District of Columbia Superior Court, and the Pretrial Services Agency shall submit to the

Mayor 2 copies of the application and completed approval form, as an advisory notice, concurrent with submitting the application and completed approval form to a grant-making agency in accordance with rules and regulations issued pursuant to subsection (c) of this section.

(c) Those agencies identified in subsection (b) of this section shall, within 180 days of September 16, 1980, develop rules and regulations for grant applications review and approval consistent with the responsibilities of the governing bodies of those agencies, and such rules and regulations shall be issued in accordance with the provisions of § 1-1506. (Sept. 16, 1980, D.C. Law 3-104, § 4, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-384 and 47-385.

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-384. Notice of application for grant funds.

(a) The Mayor shall monthly give notice to the Council of every proposed application for grant funds or state plan approved by the Mayor. In giving notice to the Council, the Mayor shall provide a summary of a grant application's major provisions including, but not limited to:

- (1) The grant-making agency to whom the application is made;
- (2) The period of the proposed grant;
- (3) Whether the proposed grant is new or a request for a renewal or revision of an existing grant;
- (4) A statement summarizing the purpose of the grant, and indicating its relationship to any proposed or adopted state plan, if appropriate;
- (5) A statement as to whether or not the function for which the grant is sought is already being performed by the District or within the private sector and, if so, how the grant will affect service delivery;
- (6) The amount to be received by fiscal year;
- (7) The amount of District appropriated funds, by fiscal year, to be used as a match, or the dollar equivalent and type of in-kind services to be used as a match by fiscal year and the impact on the agency budget providing the match;
- (8) A statement indicating the agency which shall administer the grant and any subgrantees including other District agencies, private organizations, or individuals;
- (9) A planning budget at the control center level for the grant, and the match, if any, including the number of employees by program structures, grade, position, and title who may be employed as a result of the grant;
- (10) A statement setting forth the quantitative and qualitative measures to be employed, if any, to judge the effectiveness and efficiency of the program in meeting its stated goals;
- (11) A statement describing the public participation, if any, in the formulation of the grant request;
- (12) A statement indicating whether or not an audit is to be made during the life of the grant or at its expiration, and if so, by whom and the scope of the audit to be performed;

(13) A statement as to whether or not an environmental impact statement is required or planned;

(14) A statement as to how the objectives of the grant will be performed or funded, if at all, when the grant expires, and any proposed commitment to continue meeting the objectives at the end of the grant period with District appropriated funds or other grant funds, including an estimate of the annual cost of that commitment; and

(15) A statement of the amount of indirect cost charged to the grant, and where appropriate, a statement of grant-making agency policy or legislation for indirect costs recoveries which are different from negotiated agreements; and the proposed allocation of indirect costs recovered on the grant.

(b) The Mayor shall monthly provide public notice of grant applications in the D.C. Register in accordance with the provisions of the District of Columbia Administrative Procedure Act (D.C. Code, § 1-1506); and such public notice shall also be provided by the presiding officer of the governing bodies of those agencies identified in § 47-383(b); and such notice shall include, but not be limited to, a summary of the information required pursuant to subsection (a) of this section. (Sept. 16, 1980, D.C. Law 3-104, § 5, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-385.

Legislative history of Law 3-104. — See note to § 47-381.

§ 47-385. Procedure for Council consent to certain grant applications and state plans.

(a) *Applications and state plans requiring Council consent.* — In addition to the notice required by § 47-384, the terms and conditions of each grant application or state plan which provides for or requests any of the following shall be approved by consent of the Council prior to submission to the federal grant-making agency:

(1) Any formula grant of more than \$5,000,000;

(2) Any grant or state plan requiring the obligation of more than \$100,000 in matching funds or in-kind contributions in any fiscal year; or

(3) Any other grant funded program which, in the Mayor's reasonable expectation, will require future annual funding of \$100,000 or more out of District revenue funds after the termination of the proposed grant.

(b) *Submission to and consent by Council.* — (1) The Mayor, 5 days before approving any grant application or state plan meeting any of the criterion of subsection (a) of this section, shall submit a copy of such application or state plan to the Chairman of the Council, along with such information as required by § 47-384(a) and including copies of any state plans which are required as a condition of a grant.

(2) The Chairman of the Council shall circulate such application or state plan to the members of the Council with a notice labeling it as requiring Council consent for submission to a grant-making agency.

(3) The Mayor shall cause to be published in the D.C. Register public notice of such submission. The notice shall include a statement that Council consent is required pursuant to this section.

(4) The Council shall consider such application or state plan according to its rules. Should no written notice of disapproval of such application or state plan be filed by any member of the Council within 14 days of the receipt of such application from the Mayor, the consent of the Council to the application shall be deemed to be given. Should notice of disapproval be filed during such initial 14-day period, the Council shall dispose of such notice of disapproval within 30 days of the initial receipt of the application from the Mayor, or Council consent to the application shall be deemed to be given; provided, that nothing in this paragraph shall be construed to waive any requirement for affirmative Council approval by the grant-making agency.

(5) No applications or state plans may be submitted to the Chairman of the Council during such time as the Council is on recess, according to its rules, nor shall any time period provided in this section continue to run during such time as the Council is on recess.

(c) *Reconsideration by Council.* — If the Council withholds its consent to a grant application, the Mayor may, on a clear showing of changed circumstances, new information, or additional administrative hardship, ask for a reconsideration of the previous action of the Council. The Council may at its discretion reconsider its previous action.

(d) *Exemptions.* — The grants submitted by agencies identified in § 47-383(b) are exempt from the provisions of this section. (Sept. 16, 1980, D.C. Law 3-104, § 6, 27 DCR 3748; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-104. — See note to § 47-381.

Cited in *Wilson v. Dixon*, 120 WLR 33 (Super. Ct. 1992).

Subchapter VII. Financial Responsibility and Management Assistance.

Subpart A. Establishment and Organization of Authority.

§ 47-391.1. District of Columbia Financial Responsibility and Management Assistance Authority.

(a) *Establishment.* — Pursuant to Article I, section 8, clause 17 of the Constitution of the United States, there is hereby established the District of Columbia Financial Responsibility and Management Assistance Authority, consisting of members appointed by the President in accordance with subsection (b) of this section. Subject to the conditions described in § 47-391.8 and except as otherwise provided in this Act, the Authority is established as an entity within the government of the District of Columbia, and is not established as a department, agency, establishment, or instrumentality of the United States Government.

(b) *Membership.* —

(1) *In general.* — The Authority shall consist of 5 members appointed by the President who meet the qualifications described in subsection (c) of this section, except that the Authority may take any action under this Act (or any amendments made by this Act) at any time after the President has appointed 3 of its members.

(2) *Consultation with Congress.* — The President shall appoint the members of the Authority after consulting with the Chair of the Committee on Appropriations and the Chair of the Committee on Government Reform and Oversight of the House of Representatives, the Chair of the Committee on Appropriations and the Chair of the Committee on Governmental Affairs of the Senate, and the Delegate to the House of Representatives from the District of Columbia.

(3) *Chair.* — The President shall designate one of the members of the Authority as the Chair of the Authority.

(4) *Sense of Congress regarding deadline for appointment.* — It is the sense of Congress that the President should appoint the members of the Authority as soon as practicable after April 17, 1995, but in no event later than 25 days after April 17, 1995.

(5) *Term of service.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, each member of the Authority shall be appointed for a term of 3 years.

(B) *Appointment for term following initial term.* — As designated by the President at the time of appointment for the term immediately following the initial term, of the members appointed for the term immediately following the initial term:

- (i) 1 member shall be appointed for a term of 1 year;
- (ii) 2 members shall be appointed for a term of 2 years; and
- (iii) 2 members shall be appointed for a term of 3 years.

(C) *Removal.* — The President may remove any member of the Authority only for cause.

(c) *Qualifications for membership.* — An individual meets the qualifications for membership on the Authority if the individual:

- (1) Has knowledge and expertise in finance, management, and the organization or operation of business or government;
- (2) Does not provide goods or services to the District government (and is not the spouse, parent, child, or sibling of an individual who provides goods and services to the District government);
- (3) Is not an officer or employee of the District government; and
- (4) Maintains a primary residence in the District of Columbia or has a primary place of business in the District of Columbia.

(d) *No compensation for service.* — Members of the Authority shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Authority.

(e) *Adoption of by-laws for conducting business of authority.* —

(1) *In general.* — As soon as practicable after the appointment of its members, the Authority shall adopt by-laws, rules, and procedures governing

its activities under this Act, including procedures for hiring experts and consultants. Such by-laws, rules, and procedures shall be public documents, and shall be submitted by the Authority upon adoption to the Mayor, the Council, the President, and Congress.

(2) *Certain activities requiring approval of majority of members.* — Under the by-laws adopted pursuant to paragraph (1) of this subsection, the Authority may conduct its operations under such procedures as it considers appropriate, except that an affirmative vote of a majority of the members of the Authority shall be required in order for the Authority to:

(A) Approve or disapprove a financial plan and budget under subpart B of this subchapter;

(B) Implement recommendations on financial stability and management responsibility under § 47-392.7;

(C) Give consent to the appointment of the Chief Financial Officer of the District of Columbia under §§ 47-317.1 through 47-317.6; and

(D) Give consent to the appointment of the Inspector General of the District of Columbia under § 1-1182.8(a).

(3) *Adoption of rules and regulations of District of Columbia.* — The Authority may incorporate in its by-laws, rules, and procedures under this subsection such rules and regulations of the District government as it considers appropriate to enable it to carry out its activities under this Act with the greatest degree of independence practicable. (Apr. 17, 1995, 109 Stat. 100, Pub. L. 104-8, § 101; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 31-2852, 47-235, 47-304.1, 47-393, and 47-3401.4.

References in text. — “This Act,” referred to in subsections (a), (b)(1), (e)(1) and (e)(3) is

the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-391.2. Executive Director and staff of Authority.

(a) *Executive Director.* — The Authority shall have an Executive Director who shall be appointed by the Chair with the consent of the Authority. The Executive Director shall be paid at a rate determined by the Authority, except that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule.

(b) *Staff.* — With the approval of the Chair, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(c) *Inapplicability of certain employment and procurement laws.* —

(1) *Civil service laws.* — The Executive Director and staff of the Authority may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of Chapter 51 and subchapter III of Chapter 53 of that title relating to classification and General Schedule pay rates.

(2) *District employment and procurement laws.* — The Executive Director and staff of the Authority may be appointed and paid without regard to the provisions of the District of Columbia Code governing appointments and salaries. The provisions of the District of Columbia Code governing procurement shall not apply to the Authority.

(d) *Staff of Federal agencies.* — Upon request of the Chair, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Authority to assist it in carrying out its duties under this Act.

(e) *Preservation of retirement and certain other rights of federal employees who become employed by the Authority.* —

(1) *In general.* — Any federal employee who becomes employed by the Authority:

(A) May elect, for purposes set forth in paragraph (2)(A) of this subsection, to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the federal government, subject to paragraph (3) of this subsection; and

(B) Shall, if such employee subsequently becomes reemployed by the federal government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the federal government.

(2) *Effect of an election.* — An election made by an individual under the provisions of paragraph (1)(A) of this subsection:

(A) Shall qualify such individual for the treatment described in such provisions for purposes of:

(i) Chapter 83 or 84 of Title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

(ii) Chapter 87 of such title (relating to life insurance); and

(iii) Chapter 89 of such title (relating to health insurance); and

(B) Shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A) of this paragraph.

(3) *Conditions for an election to be effective.* — An election made by an individual under paragraph (1)(A) of this subsection shall be ineffective unless:

(A) It is made before such individual separates from service with the federal government; and

(B) Such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

(4) *Contributions.* — If any individual makes an election under paragraph (1)(A) of this subsection, the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A) of this subsection, be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a federal agency.

(5) *Regulations.* — Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by:

(A) The Office of Personnel Management, to the extent that any program administered by the office is involved;

(B) The appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

(C) The Executive Director referred to in § 8474 of Title 5, United States Code, to the extent that the Thrift Savings Plan is involved.

(f) *Federal benefits for others.* —

(1) *In general.* — The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either:

(A) To be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A)(i) through (iii) of this section; or

(B) To participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

(2) *Effect of an election.* — An individual who elects the option under paragraph (1)(A) and (B) of this subsection shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

(3) *Definition of corresponding office or agency.* — For purposes of paragraph (1), the term “corresponding office or agency of the government of the District of Columbia” means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

(4) *Thrift Savings Plan.* — To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting “the Executive Director referred to in section 8474 of Title 5, United States Code” for “the Office of Personnel Management”.

(g)(1) *Additional election for former federal employees serving on date of enactment; election for employees appointed during interim period.* —

(A) *In general.* — Any former federal employee employed by the Authority on the effective date of the regulations referred to in subsection (h)(1)(A) of this section may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under subsection (e) of this section. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia in the same manner as provided for in subsection (f) of this section.

(B) *Exception.* — An election under this paragraph may not be made by any individual who:

(i) Is not then participating in a retirement system for federal employees (disregarding Social Security); or

(ii) Is then participating in any program of the government of the District of Columbia referred to in subsection (e)(2)(B) of this section.

(2) *Election for employees appointed during interim period.* —

(A) *From the federal government.* — Subsection (e) of this section (as last in effect before April 24, 1996) shall be deemed to have remained in effect for purposes of any federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out paragraph (1) of this subsection.

(B) *Other individuals.* — The regulations prescribed to carry out subsection (f) of this section shall include provisions under which an election under subsection (f) of this section shall be available to any individual who:

(i) Becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on April 24, 1996, and ending on the day before the effective date of such regulations;

(ii) Would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(iii) Is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of this section.

(h) *Effective date.* — Not later than 6 months after April 24, 1996, there shall be prescribed in consultation with the Authority (and take effect):

(1) Regulations to carry out subsections (e), (f), and (g) of this section; and

(2) Any other regulations necessary to carry out subsections (e), (f), and (g) of this section. (Apr. 17, 1995, 109 Stat. 101, Pub. L. 104-8, § 102; Apr. 26, 1996, 110 Stat. 1321 [221], Pub. L. 104-134, §§ 153(b)(1)-(3); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Public Law 104-134, 110 Stat. 221, rewrote (e); and added (f) (now (f), (g), and (h)).

References in text. — “This Act,” referred to in subsection (d), is the District of Columbia

Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-391.3. Powers of Authority.

(a) *Hearings and sessions.* — The Authority may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Authority considers appropriate. The Authority may administer oaths or affirmations to witnesses appearing before it.

(b) *Powers of members and agents.* — Any member or agent of the Authority may, if authorized by the Authority, take any action which the Authority is authorized to take by this section.

(c) *Obtaining official data.* —

(1) *From Federal government.* — Notwithstanding sections 552 (commonly known as the Freedom of Information Act), 552a (the Privacy Act of 1974), and 552b (the Government in the Sunshine Act) of Title 5, United States Code, the Authority may secure directly from any department or agency of the

United States information necessary to enable it to carry out this Act, with the approval of the head of that department or agency.

(2) *From District government.* — Notwithstanding any other provision of law, the Authority shall have the right to secure copies of such records, documents, information, or data from any entity of the District government necessary to enable the Authority to carry out its responsibilities under this Act. At the request of the Authority, the Authority shall be granted direct access to such information systems, records, documents or information or data as will enable the Authority to carry out its responsibilities under this Act. The head of the entity of the District government responsible shall provide the Authority with such information and assistance (including granting the Authority direct access to automated or other information systems) as the Authority requires under this paragraph.

(d) *Gifts, bequests, and devises.* — The Authority may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Authority. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in such account as the Authority may establish and shall be available for disbursement upon order of the Chair.

(e) *Subpoena power.* —

(1) *In general.* — The Authority may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Authority. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) *Failure to obey a subpoena.* — If a person refuses to obey a subpoena issued under paragraph (1) of this subsection, the Authority may apply to a United States district court for an order requiring that person to appear before the Authority to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) *Service of subpoenas.* — The subpoenas of the Authority shall be served in the manner provided for subpoenas issued by United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) *Service of process.* — All process of any court to which application is made under paragraph (2) of this subsection may be served in the judicial district in which the person required to be served resides or may be found.

(f) *Administrative support services.* — Upon the request of the Authority, the Administrator of General Services shall promptly provide to the Authority, on a reimbursable basis, the administrative support services necessary for the Authority to carry out its responsibilities under this Act.

(g) *Authority to enter into contracts.* — The Executive Director may enter into such contracts as the Executive Director considers appropriate (subject to

the approval of the Chair) to carry out the Authority's responsibilities under this Act.

(h) *Civil actions to enforce powers.* — The Authority may seek judicial enforcement of its authority to carry out its responsibilities under this Act.

(i) *Penalties.* —

(1) *Acts prohibited.* — Any officer or employee of the District government who:

(A) Takes any action in violation of any valid order of the Authority or fails or refuses to take any action required by any such order; or

(B) Prepares, presents, or certifies any information (including any projections or estimates) or report for the Board or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, fails to immediately advise the Board or its agents thereof in writing, shall be guilty of a misdemeanor, and shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

(2) *Administrative discipline.* — In addition to any other applicable penalty, any officer or employee of the District government who knowingly and willfully violates paragraph (1) of this subsection shall be subject to appropriate administrative discipline, including (when appropriate) suspension from duty without pay or removal from office by order of either the Mayor or Authority.

(3) *Report by Mayor on disciplinary actions taken.* — In the case of a violation of paragraph (1) of this subsection by an officer or employee of the District government, the Mayor shall immediately report to the Board all pertinent facts together with a statement of the action taken thereon. (Apr. 17, 1995, 109 Stat. 103, Pub. L. 104-8, § 103; Apr. 26, 1996, 110 Stat. 1321 [221], Pub. L. 104-134, § 153(a); Sept. 30, 1996, 110 Stat. 3009 [1455, 1456], Pub. L. 104-208, §§ 5203(b), (c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-391.5.

Effect of amendments. — Section 153(a) of Pub. L. 104-134, 110 Stat. 1321 [221], substituted "shall promptly provide" for "may provide" in (f).

Sections 5203(b) of Pub. L. 104-208, 110 Stat. 3009 [1455], added "and shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both" to the end of (i)(1)(B).

Section 5203(c) of Pub. L. 104-208, 110 Stat. 3009 [1456], inserted "552a (the Privacy Act of 1974)" in (c)(1).

References in text. — "This Act," referred to in subsections (a), (c)(1), (c)(2), (f), (g), and (h), is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104.8.

§ 47-391.4. Exemption from liability for claims for authority employees.

The Authority, its members, and its employees may not be liable for any obligation of or claim against the Authority or its members or employees or the District of Columbia resulting from actions taken to carry out this Act. (Apr. 17, 1995, 109 Stat. 105, Pub. L. 104-8, § 104; Apr. 26, 1996, 110 Stat. 1321 [224], Pub. L. 104-134, § 153(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Public Law 104-134, 110 Stat. 1321 [224], substituted “the Authority, its members, and its employees” for “the Authority and its members,” and substituted “the Authority or its members or employees or the District of Columbia” for “the District of Columbia.”

References in text. — “This Act,” referred to in this section, is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-391.5. Treatment of actions arising from act.

(a) *Jurisdiction established in District Court for District of Columbia.* — Except as provided in § 47-391.3(e)(2) (relating to the issuance of an order enforcing a subpoena), any action against the Authority or any action otherwise arising out of this Act, in whole or in part, shall be brought in the United States District Court for the District of Columbia.

(b) *Prompt appeal.* —

(1) *Court of appeals.* — Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under subsection (a) of this section shall be reviewable only pursuant to a notice of appeal to the United States Court of Appeals for the District of Columbia Circuit.

(2) *Supreme Court.* — Notwithstanding any other provision of law, review by the Supreme Court of the United States of a decision of the Court of Appeals which is issued pursuant to paragraph (1) of this subsection may be had only if the petition for such review is filed within 10 days after the entry of such decision.

(c) *Timing of relief.* — No order of any court granting declaratory or injunctive relief against the Authority, including relief permitting or requiring the obligation, borrowing, or expenditure of funds, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or (if appeal is taken) during the period before the court has entered its final order disposing of such action.

(d) *Expedited consideration.* — It shall be the duty of the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a) of this section. (Apr. 17, 1995, 109 Stat. 105, Pub. L. 104-8, § 105; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “This Act,” referred to in subsection (a), is the District of Columbia Financial Responsibility and Management As-

sistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-391.6. Funding for operation of Authority.

(a) *Annual budgeting process.* —

(1) *Submission of budget.* — The Authority shall submit a proposed budget for each fiscal year to the President for inclusion in the annual budget for the District of Columbia under Part D of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act not later than the

May 1 prior to the first day of the fiscal year. In the case of the budget for fiscal year 1996, the Authority shall submit its proposed budget not later than July 15, 1995.

(2) *Contents of budget.* — The budget shall describe:

(A) Expenditures of the Authority by each object class, including expenditures for staff of the Authority;

(B) Services of personnel and other services provided by or on behalf of the Authority for which the Authority made no reimbursement; and

(C) Any gifts or bequests made to the authority during the previous fiscal year.

(3) *Appropriations required.* — No amount may be obligated or expended by the Authority for a fiscal year (beginning with fiscal year 1996) unless such amount has been approved by Act of Congress, and then only according to such Act.

(b) *Special rule for funding of operations during fiscal year 1995.* — As soon as practicable after the appointment of its members, the Authority shall submit to the Mayor and the President:

(1) A request for reprogramming of funds under subsection (c)(1) of this section; and

(2) A description of anticipated expenditures of the Authority for fiscal year 1995 (which shall be transmitted to Congress).

(c) *Sources of funds.* —

(1) *Use of previously appropriated funds in District budget.* — The Mayor shall transfer funds previously appropriated to the District government for a fiscal year for auditing and consulting services to the Authority (in such amounts as are provided in the budget request of the Authority under subsection (a) of this section or, with respect to fiscal year 1995, the request submitted under subsection (b)(1) of this section) for the purpose of carrying out the Authority's activities during the fiscal year.

(2) *Other sources of funds.* — For provisions describing the sources of funds available for the operations of the Authority during a fiscal year (in addition to any interest earned on accounts of the Authority during the year), see § 47-392.4(b)(1)(A) (relating to the set-aside of amounts requisitioned from the Treasury by the Mayor) and § 47-392.13(b)(3) (relating to the use of interest accrued from amounts in a debt service reserve fund of the Authority). (Apr. 17, 1995, 109 Stat. 105, Pub. L. 104-8, § 106; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-392.4 and 47-392.12.

References in text. — "Part D of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act," referred to

in (a)(1), is Part D, §§ 441 to 456, of Title IV of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, which are codified as §§ 1-1130, 31-104, 47-101, 47-117, 47-130, 47-231 to 47-235, 47-301 to 47-305, 47-310 and 47-312.

§ 47-391.7. Suspension of activities.

(a) *Suspension upon payment of authority obligations.* —

(1) *In general.* — Upon the expiration of the 12-month period which begins on the date that the Authority certifies that all obligations arising from

the issuance by the Authority of bonds, notes, or other obligations pursuant to subpart C of this subchapter have been discharged, and that all borrowings by or on behalf of the District of Columbia pursuant to §§ 47-3401 through 47-3401.4, have been repaid, the Authority shall suspend any activities carried out under this Act and the terms of the members of the Authority shall expire.

(2) *No suspension during control year.* — The Authority may not suspend its activities pursuant to paragraph (1) of this subsection at any time during a control year.

(b) *Reactivation upon initiation of control period.* — Upon receiving notice from the Chairs of the Appropriations Committees of the House of Representatives and the Senate that a control period has been initiated (as described in § 47-392.9) at any time after the Authority suspends its activities under subsection (a) of this section, the President shall appoint members of the Authority, and the Authority shall carry out activities under this Act, in the same manner as the President appointed members and the Authority carried out activities prior to such suspension. (Apr. 17, 1995, 109 Stat. 106, Pub. L. 104-8, § 107; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.21.

References in text. — “This Act,” referred to in subsections (a) and (b), is the District of

Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-391.8. Application of laws of District of Columbia to authority.

(a) *In general.* — The following laws of the District of Columbia (as in effect on April 17, 1995) shall apply to the members and activities of the Authority:

- (1) § 1-1504;
- (2) §§ 1-1521 through 1-1526; and
- (3) § 1-1461.

(b) *No control, supervision, oversight, or review by Mayor or Council.* — Neither the Mayor nor the Council may exercise any control, supervision, oversight, or review over the Authority or its activities.

(c) *Authority not subject to representation by Corporation Counsel.* — In any action brought by or on behalf of the Authority, and in any action brought against the Authority, the Authority shall be represented by such counsel as it may select, but in no instance may the Authority be represented by the Corporation Counsel of the District of Columbia. (Apr. 17, 1995, 109 Stat. 107, Pub. L. 104-8, § 108; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-391.1.

Subpart B. Establishment and Enforcement of Financial Plan and Budget
for District Government.

**§ 47-392.1. Development of financial plan and budget for
District of Columbia.**

(a) *Development of financial plan and budget.* — For each fiscal year for which the District government is in a control period, the Mayor shall develop and submit to the Authority a financial plan and budget for the District of Columbia in accordance with this section.

(b) *Contents of financial plan and budget.* — A financial plan and budget for the District of Columbia for a fiscal year shall specify the budgets for the District government under Part D of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act for the applicable fiscal year and the next 3 fiscal years (including the projected revenues and expenditures of each fund of the District government for such years), in accordance with the following requirements:

(1) The financial plan and budget shall meet the standards described in subsection (c) of this section to promote the financial stability of the District government.

(2) The financial plan and budget shall provide for estimates of revenues and expenditures on a modified accrual basis.

(3) The financial plan and budget shall:

(A) Describe lump sum expenditures by department by object class;

(B) Describe capital expenditures (together with a schedule of projected capital commitments of the District government and proposed sources of funding);

(C) Contain estimates of short-term and long-term debt (both outstanding and anticipated to be issued); and

(D) Contain cash flow forecasts for each fund of the District government at such intervals as the Authority may require.

(4) The financial plan and budget shall include a statement describing methods of estimations and significant assumptions.

(5) The financial plan and budget shall include any other provisions and shall meet such other criteria as the Authority considers appropriate to meet the purposes of this Act, including provisions for changes in personnel policies and levels for each department or agency of the District government, changes in the structure and organization of the District government, and management initiatives to promote productivity, improvement in the delivery of services, or cost savings.

(c) *Standards to promote financial stability described.* —

(1) *In general.* — The standards to promote the financial stability of the District government applicable to the financial plan and budget for a fiscal year are as follows:

(A) In the case of the financial plan and budget for fiscal year 1996, the expenditures of the District government for each fiscal year (beginning with fiscal year 1999) may not exceed the revenues of the District government for each such fiscal year.

(B) During fiscal years 1996, 1997, and 1998, the District government shall make continuous, substantial progress towards equalizing the expenditures and revenues of the District government for such fiscal years (in equal annual installments to the greatest extent possible).

(C) The District government shall provide for the orderly liquidation of the cumulative fund balance deficit of the District government, as evidenced by financial statements prepared in accordance with generally accepted accounting principles.

(D) If funds in accounts of the District government which are dedicated for specific purposes have been withdrawn from such accounts for other purposes, the District government shall fully restore the funds to such accounts.

(E) The financial plan and budget shall assure the continuing long-term financial stability of the District government, as indicated by factors including access to short-term and long-term capital markets, the efficient management of the District government's workforce, and the effective provision of services by the District government.

(2) *Application of sound budgetary practices.* — In meeting the standards described in paragraph (1) of this subsection with respect to a financial plan and budget for a fiscal year, the District government shall apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices.

(3) *Assumptions based on current law.* — In meeting the standards described in paragraph (1) of this subsection with respect to a financial plan and budget for a fiscal year, the District government shall base estimates of revenues and expenditures on Federal law as in effect at the time of the preparation of the financial plan and budget. (Apr. 17, 1995, 109 Stat. 108, Pub. L. 104-8, § 201; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 31-2853.1, 47-392.2, 47-392.22, and 47-393.

References in text. — "Part D of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act," referred to in the introductory language of subsection (b), is Part D, §§ 441 to 456, of Title IV of Pub. L. 93-198, 87 Stat. 774, approved December 24,

1973, which are codified as §§ 1-1130, 31-104, 47-101, 47-117, 47-130, 47-231 to 47-235, 47-301 to 47-305, 47-310 and 47-312.

"This Act," referred to in subsection (b)(5), is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.2. Process for submission and approval of financial plan and annual District budget.

(a) *Submission of preliminary financial plan and budget by Mayor.* — Not later than the February 1 preceding a fiscal year for which the District government is in a control period, the Mayor shall submit to the Authority and the Council a financial plan and budget for the fiscal year which meets the requirements of § 47-392.1.

(b) *Review by authority.* — Upon receipt of the financial plan and budget for a fiscal year from the Mayor under subsection (a) of this section, the Authority

shall promptly review the financial plan and budget. In conducting the review, the Authority may request any additional information it considers necessary and appropriate to carry out its duties under this subpart.

(c) *Action upon approval of Mayor's preliminary financial plan and budget.*

—
(1) *Certification to Mayor.* —

(A) *In general.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Mayor under subsection (a) of this section meets the requirements applicable under § 47-392.1:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Mayor shall promptly submit the financial plan and budget to the Council pursuant to § 47-301.

(B) *Deemed approval after 30 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, and Congress with a notice certifying approval under subparagraph (A)(i) of this paragraph or a statement of disapproval under subsection (d)(1) of this section upon the expiration of the 30-day period which begins on the date the Authority receives the financial plan and budget from the Mayor under subsection (a) of this section, the Authority shall be deemed to have approved the financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (A)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 30-day period described in subsubparagraph (i) of this subparagraph.

(2) *Adoption of financial plan and budget by Council after receipt of approved financial plan and budget.* — Notwithstanding the first sentence of § 47-304, not later than 30 days after receiving the financial plan and budget for the fiscal year from the Mayor under paragraph (1)(A)(ii) of this subsection, the Council shall by Act adopt a financial plan and budget for the fiscal year which shall serve as the adoption of the budgets of the District government for the fiscal year under such section, and shall submit such financial plan and budget to the Mayor and the Authority.

(3) *Review of Council financial plan and budget by Authority.* — Upon receipt of the financial plan and budget for a fiscal year from the Council under paragraph (2) of this subsection (taking into account any items or provisions disapproved by the Mayor or disapproved by the Mayor and reenacted by the Council under § 1-227(f), the Authority shall promptly review the financial plan and budget. In conducting the review, the Authority may request any additional information it considers necessary and appropriate to carry out its duties under this subpart.

(4) *Results of Authority review of Council's initial financial plan and budget.* —

(A) *Approval of Council's initial financial plan and budget.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Council under paragraph (2) of this subsection meets the requirements applicable under § 47-392.1:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Council shall promptly submit the financial plan and budget to the Mayor for transmission to the President and Congress under § 47-304.

(B) *Disapproval of Council's initial budget.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Council under paragraph (2) of this subsection does not meet the requirements applicable under § 47-392.1, the Authority shall disapprove the financial plan and budget, and shall provide the Mayor, the Council, the President, and Congress with a statement containing:

(i) The reasons for such disapproval;

(ii) The amount of any shortfall in the budget or financial plan; and

(iii) Any recommendations for revisions to the budget the Authority considers appropriate to ensure that the budget is consistent with the financial plan and budget.

(C) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (A)(i) of this paragraph or a statement of disapproval under subparagraph (B) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the financial plan and budget from the Council under paragraph (2) of this subsection, the Authority shall be deemed to have approved the financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (A)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(5) *Authority review of Council's revised financial plan and budget.* —

(A) *Submission of Council's revised financial plan and budget.* — Not later than 15 days after receiving the statement from the Authority under paragraph (4)(B) of this subsection, the Council shall promptly by Act adopt a revised financial plan and budget for the fiscal year which addresses the reasons for the Authority's disapproval cited in the statement, and shall submit such financial plan and budget to the Mayor and the Authority.

(B) *Approval of Council's revised financial plan and budget.* — If, after reviewing the revised financial plan and budget for a fiscal year submitted by the Council under subparagraph (A) of this paragraph in accordance with the procedures described in this subsection, the Authority determines that the

revised financial plan and budget meets the requirements applicable under § 47-392.1:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Council shall promptly submit the financial plan and budget to the Mayor for transmission to the President and Congress under § 47-304.

(C) *Disapproval of Council's revised financial plan and budget.* —

(i) *In general.* — If, after reviewing the revised financial plan and budget for a fiscal year submitted by the Council under subparagraph (A) of this paragraph in accordance with the procedures described in this subsection, the Authority determines that the revised financial plan and budget does not meet the applicable requirements under § 47-392.1, the Authority shall:

(I) Disapprove the financial plan and budget;

(II) Provide the Mayor, the Council, the President, and Congress with a statement containing the reasons for such disapproval and describing the amount of any shortfall in the financial plan and budget; and

(III) Approve and recommend a financial plan and budget for the District government which meets the applicable requirements under § 47-392.1, and submit such financial plan and budget to the Mayor, the Council, the President, and Congress.

(ii) *Transmission of rejected financial plan and budget.* — The Council shall promptly submit the revised financial plan and budget disapproved by the Authority under this subparagraph to the Mayor for transmission to the President and Congress under § 47-304.

(D) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (B)(i) of this paragraph or a statement of disapproval under subparagraph (C) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the revised financial plan and budget submitted by the Council under subparagraph (A) of this paragraph, the Authority shall be deemed to have approved the revised financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (B)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(6) *Deadline for transmission of financial plan and budget by Authority.* — Notwithstanding any other provision of this section, not later than the June 15 preceding each fiscal year which is a control year, the Authority shall:

(A) Provide Congress with a notice certifying its approval of the Council's initial financial plan and budget for the fiscal year under paragraph (4)(A) of this subsection;

(B) Provide Congress with a notice certifying its approval of the Council's revised financial plan and budget for the fiscal year under paragraph (5)(B) of this subsection; or

(C) Submit to Congress an approved and recommended financial plan and budget of the Authority for the District government for the fiscal year under paragraph (5)(C) of this subsection.

(d) *Action upon disapproval of Mayor's preliminary financial plan and budget.* —

(1) *Statement of disapproval.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Mayor under subsection (a) of this section does not meet the requirements applicable under § 47-392.1, the Authority shall disapprove the financial plan and budget, and shall provide the Mayor and the Council with a statement containing:

(A) The reasons for such disapproval;

(B) The amount of any shortfall in the financial plan and budget; and

(C) Any recommendations for revisions to the financial plan and budget the Authority considers appropriate to ensure that the financial plan and budget meets the requirements applicable under § 47-392.1.

(2) *Authority review of Mayor's revised financial plan and budget.* —

(A) *Submission of Mayor's revised financial plan and budget.* — Not later than 15 days after receiving the statement from the Authority under paragraph (1) of this subsection, the Mayor shall promptly submit to the Authority and the Council a revised financial plan and budget for the fiscal year which addresses the reasons for the Authority's disapproval cited in the statement.

(B) *Approval of Mayor's revised financial plan and budget.* — If the Authority determines that the revised financial plan and budget for the fiscal year submitted by the Mayor under subparagraph (A) of this paragraph meets the requirements applicable under § 47-392.1:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Mayor shall promptly submit the financial plan and budget to the Council pursuant to § 47-301.

(C) *Disapproval of Mayor's revised financial plan and budget.* —

(i) *In general.* — If the Authority determines that the revised financial plan and budget for the fiscal year submitted by the Mayor under subparagraph (A) of this paragraph does not meet the requirements applicable under § 47-392.1, the Authority shall:

(I) Disapprove the financial plan and budget;

(II) Shall provide the Mayor, the Council, the President, and Congress with a statement containing the reasons for such disapproval; and

(III) Recommend a financial plan and budget for the District government which meets the requirements applicable under § 47-392.1 and submit such financial plan and budget to the Mayor and the Council.

(ii) *Submission of rejected financial plan and budget.* — The Mayor shall promptly submit the revised financial plan and budget disapproved by the Authority under this subparagraph to the Council pursuant to § 47-301.

(D) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (B)(i) of this paragraph or a statement of disapproval under subparagraph (C) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the revised financial plan and budget submitted by the Mayor under subparagraph (A) of this paragraph, the Authority shall be deemed to have approved the revised financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (B)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(3) *Action by Council.* —

(A) *Adoption of financial plan and budget.* — Notwithstanding the first sentence of § 47-304, not later than 30 days after receiving the Mayor's approved revised financial plan and budget for the fiscal year under paragraph (2)(B) of this subsection or (in the case of a financial plan and budget disapproved by the Authority) the financial plan and budget recommended by the Authority under paragraph (2)(C)(i)(III) of this subsection, the Council shall by Act adopt a financial plan and budget for the fiscal year which shall serve as the adoption of the budgets of the District government for the fiscal year under such section, and shall submit the financial plan and budget to the Mayor and the Authority.

(B) *Review by Authority.* — The financial plan and budget submitted by the Council under subparagraph (A) of this paragraph shall be subject to review by the Authority and revision by the Council in the same manner as the financial plan and budget submitted by the Council after an approved preliminary financial plan and budget of the Mayor under paragraphs (3), (4), (5), and (6) of subsection (c) of this section.

(e) *Revisions to financial plan and budget.* —

(1) *Permitting Mayor to submit revisions.* — The Mayor may submit proposed revisions to the financial plan and budget for a control year to the Authority at any time during the year.

(2) *Process for review, approval, disapproval, and Council action.* — Except as provided in paragraph (3) of this subsection, the procedures described in subsections (b), (c), and (d) of this section shall apply with respect to a proposed revision to a financial plan and budget in the same manner as such procedures apply with respect to the original financial plan and budget, except that subparagraph (B) of subsection (c)(1) (relating to deemed approval by the Authority of a preliminary financial plan and budget of the Mayor) shall be applied as if the reference to the term "30-day period" were a reference to "20-day period".

(3) *Exception for revisions not affecting appropriations.* — To the extent that a proposed revision to a financial plan and budget adopted by the Council pursuant to this subsection does not increase the amount of spending with respect to any account of the District government, the revision shall become effective upon the Authority's approval of such revision (subject to review by Congress under § 1-233(c)). (Apr. 17, 1995, 109 Stat. 109, Pub. L. 104-8, § 202; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-392.3, 47-392.4, 47-392.6, 47-392.8, 47-392.22, and 47-393.

§ 47-392.3. Review of activities of district government to ensure compliance with approved financial plan and budget.

(a) *Review of Council acts.* —

(1) *Submission of acts to Authority.* — The Council shall submit to the Authority each act passed by the Council and signed by the Mayor during a control year or vetoed by the Mayor and repassed by two-thirds of the Council present and voting during a control year, and each act passed by the Council and allowed to become effective without the Mayor's signature during a control year, together with the estimate of costs accompanying such act required under § 1-233(c)(3).

(2) *Prompt review by Authority.* — Upon receipt of an act from the Council under paragraph (1) of this subsection, the Authority shall promptly review the act to determine whether it is consistent with the applicable financial plan and budget approved under this subpart and with the estimate of costs accompanying the act (described in paragraph (1) of this subsection).

(3) *Actions by Authority.* —

(A) *Approval.* — If the Authority determines that an act is consistent with the applicable financial plan and budget, the Authority shall notify the Council that it approves the act, and the Council shall submit the act to Congress for review in accordance with § 1-233(c).

(B) *Finding of inconsistency.* — If the Authority determines that an act is significantly inconsistent with the applicable financial plan and budget, the Authority shall:

- (i) Notify the Council of its finding;
- (ii) Provide the Council with an explanation of the reasons for its finding; and
- (iii) To the extent the Authority considers appropriate, provide the Council with recommendations for modifications to the act.

(C) [Repealed].

(4) *Effect of finding.* — If the Authority makes a finding with respect to an act under paragraph (3)(B) of this subsection, the Council may not submit the act to Congress for review in accordance with § 1-233(c).

(5) *Deemed approval.* — If the Authority does not notify the Council that it approves or disapproves an act submitted under this subsection during the

7-day period (excluding Saturdays, Sundays, and legal holidays) which begins on the first day (excluding Saturdays, Sundays, and legal holidays) after the Authority receives the act from the Council, the Authority shall be deemed to have approved the act in accordance with paragraph (3)(A) of this subsection. At the option of the Authority, the previous sentence shall be applied as if the reference to “7-day period” were a reference to “14-day period” if during such 7-day period the Authority so notifies the Council and the Mayor.

(6) *Preliminary review of proposed acts.* — At the request of the Council, the Authority may conduct a preliminary review of proposed legislation before the Council to determine whether the legislation as proposed would be consistent with the applicable financial plan and budget approved under this subpart, except that any such preliminary review shall not be binding on the Authority in reviewing any act subsequently submitted under this subsection.

(b) *Effect of approved financial plan and budget on contracts and leases.* —

(1) *Mandatory prior approval for certain contracts and leases.* —

(A) *In general.* — In the case of a contract or lease described in subparagraph (B) of this paragraph, which is proposed to be entered into by the District government during a control year, the Mayor (or the appropriate officer or agent of the District government) shall submit the proposed contract or lease to the Authority. The Authority shall review each contract or lease submitted under this subparagraph, and the Mayor (or the appropriate officer or agent of the District government) may not enter into the contract or lease unless the Authority determines that the proposed contract or lease is consistent with the financial plan and budget for the fiscal year.

(B) *Contracts and leases described.* — A contract or lease described in this subparagraph is:

(i) A labor contract entered into through collective bargaining; or

(ii) Such other type of contract or lease as the Authority may specify for purposes of this subparagraph.

(2) *Authority to review other contracts and leases after execution.* —

(A) *In general.* — In addition to the prior approval of certain contracts and leases under paragraph (1) of this subsection, the Authority may require the Mayor (or the appropriate officer or agent of the District government) to submit to the Authority any other contract (including a contract to carry out a grant) or lease entered into by the District government during a control year which is executed after the Authority has approved the financial plan and budget for the year under § 47-392.2(c) or (d), or any proposal of the District government to renew, extend, or modify a contract or lease during a control year which is made after the Authority has approved such financial plan and budget.

(B) *Review by Authority.* — The Authority shall review each contract or lease submitted under subparagraph (A) of this paragraph to determine if the contract or lease is consistent with the financial plan and budget for the fiscal year. If the Authority determines that the contract or lease is not consistent with the financial plan and budget, the Mayor shall take such actions as are within the Mayor’s powers to revise the contract or lease, or shall submit a proposed revision to the financial plan and budget in accordance with

§ 47-392.2, so that the contract or lease will be consistent with the financial plan and budget.

(3) *Special rule for fiscal year 1995.* — The Authority may require the Mayor to submit to the Authority any proposal to renew, extend, or modify a contract or lease in effect during fiscal year 1995 to determine if the renewal, extension, or modification is consistent with the budget for the District of Columbia under the District of Columbia Appropriations Act, 1995.

(4) *Special rule for contracts subject to Council approval.* — In the case of a contract or lease which is required to be submitted to the Authority under this subsection and which is subject to approval by the Council under the laws of the District of Columbia, the Mayor shall submit such contract or lease to the Authority only after the Council has approved the contract or lease.

(5) *Application to rules and regulations.* — The provisions of this subsection shall apply with respect to a rule or regulation issued or proposed to be issued by the Mayor (or the head of any department or agency of the District government) in the same manner as such provisions apply to a contract or lease.

(c) *Restrictions on reprogramming of amounts in budget during control years.* —

(1) *Submissions of requests to Authority.* — If the Mayor submits a request to the Council for the reprogramming of any amounts provided in a budget for a fiscal year which is a control year after the budget is adopted by the Council, the Mayor shall submit such request to the Authority, which shall analyze the effect of the proposed reprogramming on the financial plan and budget for the fiscal year and submit its analysis to the Council not later than 15 days after receiving the request.

(2) *No action permitted until analysis received.* — The Council may not adopt a reprogramming during a fiscal year which is a control year, and no officer or employee of the District government may carry out any reprogramming during such a year, until the Authority has provided the Council with an analysis of a request for the reprogramming in accordance with paragraph (1) of this subsection. (Apr. 17, 1995, 109 Stat. 116, Pub. L. 104-8, § 203; Apr. 26, 1996, 110 Stat. 1321 [224], Pub. L. 104-134, § 153(d); Sept. 30, 1996, 110 Stat. 3009 [1455], Pub. L. 104-208, §§ 5203(a), (d); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 31-451, 31-2801, 47-363, and 47-392.22.

Effect of amendments. — Public Law 104-134, 110 Stat. 1321 [224], deleted (a)(3)(c).

Public Law 104-208, 110 Stat. 3009 [1455], in (a)(5), inserted the first instance of “(excluding Saturdays, Sundays, and legal holidays)” and

substituted “the first day (excluding Saturdays, Sundays, and legal holidays) after the Authority receives the act from the Council,” and added (b)(5).

References in text. — “The District of Columbia Appropriations Act, 1995,” referred to in subsection (b)(3) is 108 Stat. 2585, Pub. L. 103-334, approved September 30, 1994.

§ 47-392.4. Restrictions on borrowing by District during control year.

(a) *Prior approval required.* —

(1) *In general.* — The District government may not borrow money during

a control year unless the Authority provides prior certification that both the receipt of funds through such borrowing and the repayment of obligations incurred through such borrowing are consistent with the financial plan and budget for the year.

(2) *Revisions to financial plan and budget permitted.* — If the Authority determines that the borrowing proposed to be undertaken by the District government is not consistent with the financial plan and budget, the Mayor may submit to the Authority a proposed revision to the financial plan and budget in accordance with § 47-392.2(e) so that the borrowing will be consistent with the financial plan and budget as so revised.

(3) *Borrowing described.* — This subsection shall apply with respect to any borrowing undertaken by the District government, including borrowing through the issuance of bonds under Part E of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, the exercise of authority to obtain funds from the United States Treasury under Title VI of the District of Columbia Revenue Act of 1939 (§§ 47-3401 through 47-3401.4), or any other means.

(4) *Special rules for treasury borrowing during fiscal year 1995.* —

(A) *No prior approval required during initial period following appointment.* — The District government may requisition advances from the United States Treasury under Title VI of the District of Columbia Revenue Act of 1939 (§§ 47-3401 through 47-3401.4) without the prior approval of the Authority during the 45-day period which begins on the date of the appointment of the members of the Authority (subject to the restrictions described in such title, as amended by subsection (c) of this section).

(B) *Criteria for approval during remainder of fiscal year.* — The District government may requisition advances described in subparagraph (A) of this paragraph during the portion of fiscal year 1995 occurring after the expiration of the 45-day period described in such subparagraph if the Authority finds that:

(i) Such borrowing is appropriate to meet the needs of the District government to reduce deficits and discharge payment obligations; and

(ii) The District government is making appropriate progress toward meeting its responsibilities under Act (and the amendments made by this Act).

(b) *Deposit of funds obtained through treasury with Authority.* —

(1) *Automatic deposit during control year.* — If the Mayor requisitions funds from the Secretary of the Treasury pursuant to Title VI of the District of Columbia Revenue Act of 1939 (§§ 47-3401 through 47-3401.4) during a control year (beginning with Fiscal Year 1996), such funds shall be deposited by the Secretary into an escrow account held by the Authority, to be used as follows:

(A) The Authority shall expend a portion of the funds for its operations during the fiscal year in which the funds are requisitioned, in such amount and under such conditions as are established under the budget of the Authority for the fiscal year under § 47-391.6(a).

(B) The Authority shall allocate the remainder of such funds to the Mayor at such intervals and in accordance with such terms and conditions as

it considers appropriate, consistent with the financial plan and budget for the year and with any other withholding of funds by the Authority pursuant to this Act.

(2) *Optional deposit during fiscal year 1995.* —

(A) *During initial period following appointment.* — If the Mayor requisitions funds described in paragraph (1) of this subsection during the 45-day period which begins on the date of the appointment of the members of the Authority, the Secretary of the Treasury shall notify the Authority, and at the request of the Authority shall deposit such funds into an escrow account held by the Authority in accordance with paragraph (1) of this subsection.

(B) *During remainder of fiscal year.* — If the Mayor requisitions funds described in paragraph (1) of this subsection during the portion of fiscal year 1995 occurring after the expiration of the 45-day period described in subparagraph (A) of this paragraph, the Secretary of the Treasury shall deposit such funds into an escrow account held by the Authority in accordance with paragraph (1) of this subsection at the request of the Authority.

(c) [Reserved].

(d) *Deposit of borrowed funds with authority.* — If the District government borrows funds during a control year, the funds shall be deposited into an escrow account held by the Authority, to be allocated by the Authority to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate, consistent with the financial plan and budget for the year and with any other withholding of funds by the Authority pursuant to this Act.

(e) *Expenditure of funds from account in accordance with authority instructions.* — Any funds allocated by the Authority to the Mayor from the escrow account described in subsection (b)(1) of this section or the escrow amount described in subsection (d) of this section may be expended by the Mayor only in accordance with the terms and conditions established by the Authority at the time the funds are allocated.

(f) *Prohibition against borrowing while suit pending.* — The Mayor may not requisition advances from the Treasury pursuant to §§ 47-3401 through 47-3401.4 if there is an action filed by the Mayor or the Council which is pending against the Authority challenging the establishment of or any action taken by the Authority. (Apr. 17, 1995, 109 Stat. 119, Pub. L. 104-8, § 204; Sept. 30, 1996, 110 Stat. 3009 [1456, 1457], Pub. L. 104-208, § 5203(e)(1), (e)(2)(A); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.6, 47-392.6, 47-392.22, 47-3401, and 47-3401.1.

Effect of amendments. — Section 5203(e)(1) of Pub. L. 104-134, 110 Stat. 3009 [1456], added (d) and redesignated the remaining subsections accordingly.

Section 5203(3)(2)(A) of Pub. L. 104-208, 110 Stat. 3009 [1457], substituted “subsection (d)” for “subsection (c)” in present (e).

References in text. — “Part E of Title IV of the District of Columbia Self-Government and

Governmental Reorganization Act,” referred to in (a)(3), is Part E, §§ 461 to 490, of Title IV of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, which are codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

“This Act,” referred to in subsections (a)(4)(B)(ii) and (b), is the District of Columbia financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.5. Deposit of annual federal payment with Authority.

(a) *In general.* —

(1) *Deposit into escrow account.* — In the case of a fiscal year which is a control year, the Secretary of the Treasury shall deposit the annual Federal payment to the District of Columbia for the year authorized under Title V of the District of Columbia Self-Government and Governmental Reorganization Act into an escrow account held by the Authority, which shall allocate the funds to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year. In establishing such terms and conditions, the Authority shall give priority to using the federal payment for cash flow management and the payment of outstanding bills owed by the District government.

(2) *Exception for amounts withheld for advances.* — Paragraph (1) of this subsection shall not apply with respect to any portion of the federal payment which is withheld by the Secretary of the Treasury in accordance with § 47-3401.3 to reimburse the Secretary for advances made under §§ 47-3401 through 47-3401.4.

(b) *Expenditure of funds from account in accordance with authority instructions.* — Any funds allocated by the Authority to the Mayor from the escrow account described in subsection (a)(1) of this section may be expended by the Mayor only in accordance with the terms and conditions established by the Authority at the time the funds are allocated. (Apr. 17, 1995, 109 Stat. 131, Pub. L. 104-8, § 205; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-392.6, 47-392.22, and 47-3401.3.

References in text. — “Title V of the District of Columbia Self-Government and Govern-

mental Reorganization Act,” referred to in (a)(1), is Title V, § 501 et seq., of Pub. L. 93-198, 87 Stat. 771, approved December 24, 1973, codified as §§ 47-3405 and 47-3406.

§ 47-392.6. Effect of finding of non-compliance with financial plan and budget.

(a) *Submission of reports.* — Not later than 30 days after the expiration of each quarter of each fiscal year (beginning with Fiscal Year 1996), the Mayor shall submit reports to the Authority describing the actual revenues obtained and expenditures made by the District government during the quarter with its cash flows during the quarter, and comparing such actual revenues, expenditures, and cash flows with the most recent projections for these items.

(b) *Demand for additional information.* — If the Authority determines, based on reports submitted by the Mayor under subsection (a) of this section, independent audits, or such other information as the Authority may obtain, that the revenues or expenditures of the District government during a control year are not consistent with the financial plan and budget for the year, the Authority shall require the Mayor to provide such additional information as the Authority determines to be necessary to explain the inconsistency.

(c) *Certification of variance.* —

(1) *In general.* — After requiring the Mayor to provide additional information under subsection (b) of this section, the Authority shall certify to the Council, the President, the Secretary of the Treasury, and Congress that the District government is at variance with the financial plan and budget unless:

(A)(i) The additional information provides an explanation for the inconsistency which the Authority finds reasonable and appropriate; or

(ii) The District government adopts or implements remedial action (including revising the financial plan and budget pursuant to § 47-392.2(e)) to correct the inconsistency which the Authority finds reasonable and appropriate, taking into account the terms of the financial plan and budget; and

(B) The Mayor agrees to submit the reports described in subsection (a) of this section on a monthly basis for such period as the Authority may require.

(2) *Special rule for inconsistencies attributable to acts of Congress.* —

(A) *Determination by Authority.* — If the Authority determines that the revenues or expenditures of the District government during a control year are not consistent with the financial plan and budget for the year as approved by the Authority under § 47-392.2 as a result of the terms and conditions of the budget of the District government for the year as enacted by Congress or as a result of any other law enacted by Congress which affects the District of Columbia, the Authority shall so notify the Mayor.

(B) *Certification.* — In the case of an inconsistency described in subparagraph (A) of this paragraph, the Authority shall certify to the Council, the President, the Secretary of the Treasury, and Congress that the District government is at variance with the financial plan and budget unless the District government adopts or implements remedial action (including revising the financial plan and budget pursuant to § 47-392.2(e)) to correct the inconsistency which the Authority finds reasonable and appropriate, taking into account the terms of the financial plan and budget.

(d) *Effect of certification.* — If the Authority certifies to the Secretary of the Treasury that a variance exists:

(1) The Authority may withhold any funds deposited with the Authority under § 47-392.4(b), § 47-392.4(d) or § 47-392.5(a) which would otherwise be expended on behalf of the District government; and

(2) The Secretary shall withhold funds otherwise payable to the District of Columbia under such federal programs as the Authority may specify (other than funds dedicated to making entitlement or benefit payments to individuals), in such amounts and under such other conditions as the Authority may specify. (Apr. 17, 1995, 109 Stat. 131, Pub. L. 104-8, § 206; Sept. 30, 1996, 110 Stat. 3009 [1457], Pub. L. 104-208, § 5203(e)(2)(B); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

Effect of amendments. — Public Law 104-

208, 110 Stat. 3009 [1457], inserted “§ 47-392.4(d)” in (d)(1).

§ 47-392.7. Recommendations on financial stability and management responsibility.

(a) *In general.* — The Authority may at any time submit recommendations to the Mayor, the Council, the President, and Congress on actions the District government or the Federal Government may take to ensure compliance by the District government with a financial plan and budget or to otherwise promote the financial stability, management responsibility, and service delivery efficiency of the District government, including recommendations relating to:

(1) The management of the District government's financial affairs, including cash forecasting, information technology, placing controls on expenditures for personnel, reducing benefit costs, reforming procurement practices, and placing other controls on expenditures;

(2) The relationship between the District government and the Federal Government;

(3) The structural relationship of departments, agencies, and independent agencies within the District government;

(4) The modification of existing revenue structures, or the establishment of additional revenue structures;

(5) The establishment of alternatives for meeting obligations to pay for the pensions of former District government employees;

(6) Modifications or transfers of the types of services which are the responsibility of and are delivered by the District government;

(7) Modifications of the types of services which are delivered by entities other than the District government under alternative service delivery mechanisms (including privatization and commercialization);

(8) The effects of District of Columbia laws and court orders on the operations of the District government;

(9) The establishment of a personnel system for employees of the District government which is based upon employee performance standards; and

(10) The improvement of personnel training and proficiency, the adjustment of staffing levels, and the improvement of training and performance of management and supervisory personnel.

(b) *Response to recommendations for actions within authority of District government.* —

(1) *In general.* — In the case of any recommendations submitted under subsection (a) of this section during a control year which are within the authority of the District government to adopt, not later than 90 days after receiving the recommendations, the Mayor or the Council (whichever has the authority to adopt the recommendation) shall submit a statement to the Authority, the President, and Congress which provides notice as to whether the District government will adopt the recommendations.

(2) *Implementation plan required for adopted recommendations.* — If the Mayor or the Council (whichever is applicable) notifies the Authority and Congress under paragraph (1) of this subsection that the District government will adopt any of the recommendations submitted under subsection (a) of this section, the Mayor or the Council (whichever is applicable) shall include in the statement a written plan to implement the recommendation which includes:

(A) Specific performance measures to determine the extent to which the District government has adopted the recommendation; and

(B) A schedule for auditing the District government's compliance with the plan.

(3) *Explanations required for recommendations not adopted.* — If the Mayor or the Council (whichever is applicable) notifies the Authority, the President, and Congress under paragraph (1) of this subsection that the District government will not adopt any recommendation submitted under subsection (a) of this section which the District government has authority to adopt, the Mayor or the Council shall include in the statement explanations for the rejection of the recommendations.

(c) *Implementation of rejected recommendations by Authority.* —

(1) *In general.* — If the Mayor or the Council (whichever is applicable) notifies the Authority, the President, and Congress under subsection (b)(1) of this section that the District government will not adopt any recommendation submitted under subsection (a) of this section which the District government has authority to adopt, the Authority may by a majority vote of its members take such action concerning the recommendation as it deems appropriate, after consulting with the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) *Effective date.* — This subsection shall apply with respect to recommendations of the Authority made after the expiration of the 6-month period which begins April 17, 1995.

(d) *Additional power to issue orders, rules, and regulations.* —

(1) *In general.* — In addition to the authority described in subsection (c) of this section, the Authority may at any time issue such orders, rules, or regulations as it considers appropriate to carry out the purposes of this Act and the amendments made by this Act, to the extent that the issuance of such an order, rule, or regulation is within the authority of the Mayor or the head of any department or agency of the District government, and any such order, rule, or regulation shall be legally binding to the same extent as if issued by the Mayor or the head of any such department or agency.

(2) *Notification.* — Upon issuing an order, rule, or regulation pursuant to this subsection, the Authority shall notify the Mayor, the Council, the President, and Congress.

(3) *No judicial review or decision to issue order.* — The decision by the Authority to issue an order, rule, or regulation pursuant to this subsection shall be final and shall not be subject to judicial review. (Apr. 17, 1995, 109 Stat. 133, Pub. L. 104-8, § 207; Sept. 30, 1996, 110 Stat. 3009 [1457], Pub. L. 104-208, § 5203(f); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.1 and 47-392.22.

Effect of amendments. — Public Law 104-208, 110 Stat. 3009 [1457], added (d).

References in text. — "This Act," referred

to in subsection (d)(1), is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.8. Special rules for Fiscal Year 1996.

(a) *Adoption of transition budget.* — Notwithstanding any provision of § 47-392.2 to the contrary, in the case of Fiscal Year 1996, the following rules shall apply:

(1) Not later than 45 days after the appointment of its members, the Authority shall review the proposed budget for the District of Columbia for such fiscal year submitted to Congress under § 47-304 (taking into account any items or provisions disapproved by the Mayor or disapproved by the Mayor and reenacted by the Council under § 1-227(f) and the multiyear plan for the District of Columbia prepared pursuant to § 47-302, and shall submit any recommendations for modifications to such financial plan and budget to promote the financial stability of the District government to the Mayor, the Council, the President, and Congress.

(2) Not later than 15 days after receiving the recommendations of the Authority submitted under paragraph (1) of this subsection, the Council (in consultation with the Mayor) shall promptly adopt a revised budget for the fiscal year (in this section referred to as the “transition budget”), and shall submit the transition budget to the Authority, the President, and Congress.

(3) Not later than 15 days after receiving the transition budget from the Council under paragraph (2) of this subsection, the Authority shall submit a report to the Mayor, the Council, the President, and Congress analyzing the budget (taking into account any items or provisions disapproved by the Mayor or disapproved by the Mayor and reenacted by the Council under § 1-227(f), and shall include in the report such recommendations for revisions to the transition budget as the Authority considers appropriate to promote the financial stability of the District government during the fiscal year.

(b) *Financial plan and budget.* —

(1) *Deadline for submission.* — For purposes of § 47-392.2, the Mayor shall submit the financial plan and budget for Fiscal Year 1996 as soon as practicable after April 17, 1995 (in accordance with guidelines established by the Authority).

(2) *Adoption by Council.* — In accordance with the procedures applicable under § 47-392.2 (including procedures providing for review by the Authority):

(A) The Council shall adopt the financial plan and budget for the fiscal year (including the supplemental budget incorporated in the financial plan and budget) prior to the submission by the Mayor of the financial plan and budget for Fiscal Year 1997 under § 47-392.2(a); and

(B) The financial plan and budget adopted by the Council (and, in the case of a financial plan and budget disapproved by the Authority, together with the financial plan and budget approved and recommended by the Authority) shall be submitted to Congress (in accordance with the procedures applicable under such section) as a supplemental budget request for Fiscal Year 1996 (in accordance with § 47-304).

(3) *Transition budget as temporary financial plan and budget.* — Until the approval of the financial plan and budget for Fiscal Year 1996 by the Authority

under this subsection, the transition budget established under subsection (a) of this section (as enacted by Congress) shall serve as the financial plan and budget adopted under this subpart for purposes of this Act (and any provision of law amended by this Act) for Fiscal Year 1996.

(c) *Restrictions on advances from treasury.* —

(1) *Monthly determination of progress toward financial plan and budget.* — During each month of Fiscal Year 1996 prior to the adoption of the financial plan and budget, the Authority shall determine whether the District government is making appropriate progress in preparing and adopting a financial plan and budget for the fiscal year under this subpart.

(2) *Certification.* — The Authority shall provide the President and Congress with a certification if the Authority finds that the District government is not making appropriate progress in developing the financial plan and budget for a month, and shall notify the President and Congress that the certification is no longer in effect if the Authority finds that the District government is making such progress after the certification is provided.

(3) *Prohibition against allocation of advances if certification in effect.* — At any time during which a certification under paragraph (2) of this subsection is in effect, the Authority may not allocate any funds obtained through advances to the Mayor under §§ 47-3401 through 47-3401.4 from the escrow account in which the funds are held. (Apr. 17, 1995, 109 Stat. 134, Pub. L. 104-8, § 208; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

References in text. — “This Act,” referred to in subsection (b)(3), is the District of Colum-

bia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.9. Control periods described.

(a) *Initiation.* — For purposes of this Act, a “control period” is initiated upon the occurrence of any of the following events (as determined by the Authority based upon information obtained through the Mayor, the Inspector General of the District of Columbia, or such other sources as the Authority considers appropriate):

(1) The requisitioning by the Mayor of advances from the Treasury of the United States under Title VI of the District of Columbia Revenue Act of 1939 (§§ 47-3401 through 47-3401.4), or the existence of any unreimbursed amounts obtained pursuant to such authority;

(2) The failure of the District government to provide sufficient revenue to a debt service reserve fund of the Authority under subpart C of this subchapter;

(3) The default by the District government with respect to any loans, bonds, notes, or other form of borrowing;

(4) The failure of the District government to meet its payroll for any pay period;

(5) The existence of a cash deficit of the District government at the end of any quarter of the fiscal year in excess of the difference between the estimated revenues of the District government and the estimated expenditures of the

District government (including repayments of temporary borrowings) during the remainder of the fiscal year or the remainder of the fiscal year together with the first 6 months of the succeeding fiscal year (as determined by the Authority in consultation with the Chief Financial Officer of the District of Columbia);

(6) The failure of the District government to make required payments relating to pensions and benefits for current and former employees of the District government; or

(7) The failure of the District government to make required payments to any entity established under an interstate compact to which the District of Columbia is a signatory.

(b) *Termination.* —

(1) *In general.* — A control period terminates upon the certification by the Authority that:

(A) The District government has adequate access to both short-term and long-term credit markets at reasonable interest rates to meet its borrowing needs; and

(B) For 4 consecutive fiscal years (occurring after April 17, 1995) the expenditures made by the District government during each of the years did not exceed the revenues of the District government during such years (as determined in accordance with generally accepted accounting principles, as contained in the comprehensive annual financial report for the District of Columbia under § 47-310(a)(4)).

(2) *Consultation with Inspector General.* — In making the determination under this subsection, the Authority shall consult with the Inspector General of the District of Columbia.

(c) *Control period deemed to exist upon enactment.* — For purposes of this subpart, a control period is deemed to exist beginning April 17, 1995. (Apr. 17, 1995, 109 Stat. 136, Pub. L. 104-8, § 209; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.7, 47-392.21, 47-392.22, and 47-393.

References in text. — “This Act,” referred to in the introductory language of (a), is the

District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.10. [Reserved].

Subpart C. Issuance of Bonds.

§ 47-392.11. Authority to issue bonds.

(a) *In general.* —

(1) *Request of Mayor.* — Subject to the requirements of this subpart, the Authority may at the request of the Mayor pursuant to an act of the Council issue bonds, notes, or other obligations to borrow funds to obtain funds for the use of the District government, in such amounts and in such manner as the Authority considers appropriate.

(2) *Special rule for instrumentalities with independent borrowing authority.* — In the case of an agency or instrumentality of the District government which under law has the authority to issue bonds, notes, or obligations to borrow funds without the enactment of an act of the Council, the Authority may issue bonds, notes, or other obligations to borrow funds for the use or functions of such agency or instrumentality at the request of the head of the agency or instrumentality.

(b) *Deposit of funds obtained through borrowing with Authority.* — Any funds obtained by the District government through borrowing by the Authority pursuant to this subpart shall be deposited into an escrow account held by the Authority, which shall allocate such funds to the District government in such amounts and at such times as the Authority considers appropriate, consistent with the specified purposes of such funds and the applicable financial plan and budget under subpart B of this subchapter.

(c) *Use of funds obtained through bonds.* — Any funds obtained through the issuance of bonds, notes, or other obligations pursuant to this subpart may be used for any purpose (consistent with the applicable financial plan and budget) under subpart B of this subchapter for which the District government may use borrowed funds under the District of Columbia Self-Government and Governmental Reorganization Act and for any other purpose which the Authority considers appropriate. (Apr. 17, 1995, 109 Stat. 137, Pub. L. 104-8, § 211; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

References in text. — “The District of Columbia Self-Government and Governmental

Reorganization Act,” referred to in (c), is Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973.

§ 47-392.12. Pledge of security interest in revenues of District government.

(a) *In general.* — The Authority may pledge or grant a security interest in revenues to individuals or entities purchasing bonds, notes, or other obligations issued pursuant to this subpart.

(b) *Dedication of revenue stream from District government.* — The Authority shall require the Mayor:

(1) To pledge or direct taxes or other revenues otherwise payable to the District government (which are not otherwise pledged or committed), including payments from the Federal Government, to the Authority for purposes of securing repayment of bonds, notes, or other obligations issued pursuant to this subpart; and

(2) To transfer the proceeds of any tax levied for purposes of securing such bonds, notes, or other obligations to the Authority immediately upon collection. (Apr. 17, 1995, 109 Stat. 137, Pub. L. 104-8, § 212; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

§ 47-392.13. Establishment of debt service reserve fund.

(a) *In general.* — As a condition for the issuance of bonds, notes, or other obligations pursuant to this subpart, the Authority shall establish a debt service reserve fund in accordance with this section.

(b) *Requirements for fund.* —

(1) *Fund described.* — A debt service reserve fund established by the Authority pursuant to this subsection shall consist of such funds as the Authority may make available, and shall be a trust fund held for the benefit and security of the obligees of the Authority whose bonds, notes, or other obligations are secured by such fund.

(2) *Use of funds.* — Amounts in a debt service reserve fund may be used solely for the payment of the principal of bonds secured in whole or in part by such fund, the purchase or redemption of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds and notes are redeemed prior to maturity.

(3) *Restrictions on withdrawals.* —

(A) *In general.* — Amounts in a debt service reserve fund may not be withdrawn from the fund at any time in an amount that would reduce the amount of the fund to less than the minimum reserve fund requirement established for such fund in the resolution of the Authority creating such fund, except for withdrawals for the purpose of making payments when due of principal, interest, redemption premiums and sinking fund payments, if any, with respect to such bonds for the payment of which other moneys of the Authority are not available, and for the purpose of funding the operations of the Authority for a fiscal year (in such amounts and under such conditions as are established under the budget of the Authority for the fiscal year under § 47-391.6(a)).

(B) *Use of excess funds.* — Nothing in subparagraph (A) of this subsection may be construed to prohibit the Authority from transferring any income or interest earned by, or increments to, any debt service reserve fund due to the investment thereof to other funds or accounts of the Authority (to the extent such transfer does not reduce the amount of the debt service reserve fund below the minimum reserve fund requirement established for such fund) for such purposes as the Authority considers appropriate to promote the financial stability and management efficiency of the District government. (Apr. 17, 1995, 109 Stat. 138, Pub. L. 104-8, § 213; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.6, 47-392.14, and 47-392.22.

§ 47-392.14. Other requirements for issuance of bonds.

(a) *Minimum debt service reserve fund requirement.* — The Authority may not at any time issue bonds, notes, or other obligations pursuant to this subpart which are secured in whole or in part by a debt service reserve fund under § 47-392.13 if issuance of such bonds would cause the amount in the

debt reserve fund to fall below the minimum reserve requirement for such fund, unless the Authority at the time of issuance of such bonds shall deposit in the fund an amount (from the proceeds of the bonds to be issued or from other sources) which when added to the amount already in such fund will cause the total amount on deposit in such fund to equal or exceed the minimum reserve fund requirement established by the Authority at the time of the establishment of the fund.

(b) *Amounts included in aggregate limit on District borrowing.* — Any amounts provided to the District government through the issuance of bonds, notes, or other obligations to borrow funds pursuant to this subpart shall be taken into account in determining whether the amount of funds borrowed by the District of Columbia during a fiscal year exceeds the limitation on such amount provided under § 47-313(b). (Apr. 17, 1995, 109 Stat. 138, Pub. L. 104-8, § 214; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

§ 47-392.15. No full faith and credit of the United States.

The full faith and credit of the United States is not pledged for the payment of any principal of or interest on any bond, note, or other obligation issued by the Authority pursuant to this subpart. The United States is not responsible or liable for the payment of any principal of or interest on any bond, note, or other obligation issued by the Authority pursuant to this subpart. (Apr. 17, 1995, 109 Stat. 139, Pub. L. 104-8, § 215; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

§§ 47-392.16 to 47-392.20. [Reserved].

Section references. — This section is referred to in § 47-392.22.

Subpart D. Other Duties of Authority.

§ 47-392.21. Duties of Authority during year other than control year.

(a) *In general.* — During the period beginning upon the termination of a control period pursuant to § 47-392.9(b) and ending with the suspension of its activities pursuant to § 47-391.7(a), the Authority shall conduct the following activities:

(1) The Authority shall review the budgets of the District government adopted by the Council under § 47-304 for each fiscal year occurring during such period.

(2) At such time prior to the enactment of such budget by Congress as the Authority considers appropriate, the Authority shall prepare a report analyz-

ing the budget and submit the report to the Mayor, the Council, the President, and Congress.

(3) The Authority shall monitor the financial status of the District government and shall submit reports to the Mayor, the Council, the President, and Congress if the Authority determines that a risk exists that a control period may be initiated pursuant to § 47-392.9(a).

(4) The Authority shall carry out activities under subpart C of this subchapter with respect to bonds, notes, or other obligations of the Authority outstanding during such period.

(b) *Requiring Mayor to submit budgets to Authority.* — With respect to the budget for each fiscal year occurring during the period described in subsection (a) of this section, at the time the Mayor submits the budget of the District government adopted by the Council to the President under § 47-304, the Mayor shall submit such budget to the Authority. (Apr. 17, 1995, 109 Stat. 139, Pub. L. 104-8, § 221; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

§ 47-392.22. General assistance in achieving financial stability and management efficiency.

In addition to any other actions described in §§ 47-392.1 through 47-392.24, the Authority may undertake cooperative efforts to assist the District government in achieving financial stability and management efficiency, including:

(1) Assisting the District government in avoiding defaults, eliminating and liquidating deficits, maintaining sound budgetary practices, and avoiding interruptions in the delivery of services;

(2) Assisting the District government in improving the delivery of municipal services, the training and effectiveness of personnel of the District government, and the efficiency of management and supervision; and

(3) Making recommendations to the President for transmission to Congress on changes to this Act or other Federal laws, or other actions of the Federal Government, which would assist the District government in complying with an approved financial plan and budget under subpart B of this subchapter. (Apr. 17, 1995, 109 Stat. 140, Pub. L. 104-8, § 222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “This Act,” referred to in paragraph (3), is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.23. Obtaining reports.

The Authority may require the Mayor, the Chair of the Council, the Chief Financial Officer of the District of Columbia, and the Inspector General of the District of Columbia, to prepare and submit such reports as the Authority considers appropriate to assist it in carrying out its responsibilities under this

Act, including submitting copies of any reports regarding revenues, expenditures, budgets, costs, plans, operations, estimates, and other financial or budgetary matters of the District government. (Apr. 17, 1995, 109 Stat. 140, Pub. L. 104-8, § 223; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

References in text. — “This Act,” referred to in this section, is the District of Columbia

Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.24. Reports and comments.

(a) *Annual reports to Congress.* — Not later than 30 days after the last day of each fiscal year which is a control year, the Authority shall submit a report to Congress describing:

(1) The progress made by the District government in meeting the objectives of this Act during the fiscal year;

(2) The assistance provided by the Authority to the District government in meeting the purposes of this Act for the fiscal year; and

(3) Any other activities of the Authority during the fiscal year.

(b) *Review and analysis of performance and financial accountability reports.* — The Authority shall review each report prepared and submitted by the Mayor under § 47-321, and shall submit a report to Congress analyzing the completeness and accuracy of such reports.

(c) *Comments regarding activities of District government.* — At any time during a control year, the Authority may submit a report to Congress describing any action taken by the District government (or any failure to act by the District government) which the Authority determines will adversely affect the District government’s ability to comply with an approved financial plan and budget under subpart B of this subchapter or will otherwise have a significant adverse impact on the best interests of the District of Columbia.

(d) *Reports on effect of Federal laws on District government.* — At any time during any year, the Authority may submit a report to the Mayor, the Council, the President, and Congress on the effect of laws enacted by Congress on the financial plan and budget for the year and on the financial stability and management efficiency of the District government in general.

(e) *Making reports publicly available.* — The Authority shall make any report submitted under this section available to the public, except to the extent that the Authority determines that the report contains confidential material. (Apr. 17, 1995, 109 Stat. 140, Pub. L. 104-8, § 224; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-392.22.

References in text. — “This Act,” referred to in subsections (a)(1) and (a)(2), is the District

of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

§ 47-392.25. Disposition of certain school property.

(a) *Power to dispose.* — Notwithstanding any other provision of law relating to the disposition of a facility or property described in subsection (d) of this section, the Authority may dispose (by sale, lease, or otherwise) of any facility or property described in subsection (d) of this section.

(b) *Preference for public charter school.* — In disposing of a facility or property under this section, the Authority shall give preference to an eligible applicant (as defined in § 31-2852) whose petition to establish a public charter school has been conditionally approved under § 31-2853.13(d)(2), or a Board of Trustees (as defined in § 31-2852) of such a public charter school, if doing so will not result in a significant loss of revenue than might be obtained from other dispositions or uses of the facility or property.

(c) *Use of proceeds from disposition for school repair and maintenance.*

(1) *In general.* — The Authority shall deposit any proceeds of the disposition of a facility or property under this section in the Board of Education Real Property Maintenance and Improvement Fund (as established by the Real Property Disposal Act of 1990), to be used for the construction, maintenance, improvement, rehabilitation, or repair of buildings and grounds which are used for educational purposes for public and public charter school students in the District of Columbia.

(2) *Consultation.* — In disposing of a facility or property under this section, the Authority shall consult with the Superintendent of Schools of the District of Columbia, the Mayor, the Council, the Administrator of General Services, and education and community leaders involved in planning for an agency or authority that will design and administer a comprehensive long-term program for repair and improvement of District of Columbia public school facilities (as described in § 31-253.52(a)).

(3) *Legal effect of sale.* — The Authority may dispose of a facility or property under this section by executing a proper deed and any other legal instrument for conveyance of title to the facility or property, and such deed shall convey good and valid title to the purchaser of the facility or property.

(d) *Facility or property described.* — A facility or property described in this subsection is a facility or property which is described in § 31-2853.19(b)(1)(B) and with respect to which the Authority has made the following determinations:

(1) The property is no longer needed for purposes of operating a District of Columbia public school (as defined in § 31-2852).

(2) The disposition of the property is in the best interests of education in the District of Columbia.

(3) The Mayor (or any other department or agency of the District government) has failed to make substantial progress toward disposing the property during the 90-day period which begins on the date the Board of Education transfers jurisdiction over the property to the Mayor (or, in the case of property which is described in § 31-2853.19(b)(1)(B) as of September 30, 1996, during the 90-day period which begins on September 30, 1996). (Apr. 17, 1995, 109 Stat. 140, Pub. L. 104-8, § 225, as added Sept. 30, 1996, 110 Stat.

3009 [1474], Pub. L. 104-208, § 5206(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Public Law 104-208, 110 Stat. 3009 [1474], added this section.
References in text. — The “Board of Education Real Property Disposal Act of 1990”, referred to in subsection (c)(1), is D.C. Law 8-158.

§ 47-392.26. Prohibiting funding for terminated employees or contractors.

(a) *In general.* — Except as provided in subsection (b) of this section, none of the funds made available to the District of Columbia during any fiscal year (beginning with fiscal year 1996) may be used to pay the salary or wages of any individual whose employment by the District government is no longer required as determined by the District of Columbia Financial Responsibility and Management Assistant Authority, or to pay any expenses associated with a contractor or consultant of the District government whose contract or arrangement with the District government is no longer required as determined by the Authority,

(b) *Exception for payments for services already provided.* — Funds made available to the District of Columbia may be used to pay an individual for employment already performed at the time of the Authority’s determination, or to pay a contractor or consultant for services already provided at the time of the Authority’s determination, to the extent permitted by the District of Columbia Financial Responsibility and Management Assistance Authority.

(c) *District government defined.* — In this section, the term “District government” has the meaning given such term in § 47-393(5). (Sept. 30, 1996, 110 Stat. 3009 [1459], Pub. L. 104-208, § 5204; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Subpart E. Definitions.

§ 47-393. Definitions.

In this Act, the following definitions apply:

(1) The term “Authority” means the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a).

(2) The term “Council” means the Council of the District of Columbia.

(3) The term “control period” has the meaning given such term in § 47-392.9.

(4) The term “control year” means any fiscal year for which a financial plan and budget approved by the Authority under § 47-392.2(b) is in effect, and includes Fiscal Year 1996.

(5) The term “District government” means the government of the District of Columbia, including any department, agency or instrumentality of the government of the District of Columbia; any independent agency of the District of Columbia established under Part F of Title IV of the District of Columbia

Self-Government and Governmental Reorganization Act or any other agency, board, or commission established by the Mayor or the Council; the courts of the District of Columbia; the Council of the District of Columbia; and any other agency, public authority, or public benefit corporation which has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia), except that such term does not include the Authority.

(6) The term “financial plan and budget” means a financial plan and budget described in subpart B of this subchapter, and includes the budgets of the District government for the fiscal years which are subject to the financial plan and budget (as described in § 47-392.1(b)).

(7) The term “Mayor” means the Mayor of the District of Columbia. (Apr. 17, 1995, 109 Stat. 152, Pub. L. 104-8, § 305; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-1181.4, 1-3102, 47-313, 47-317.6, and 47-3401.4.

References in text. — “This Act,” referred to in the introductory language of this section, is the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995, 109 Stat. 97, Pub. L. 104-8.

“Part F of Title IV of the District of Columbia Self-Government and Governmental Reorganization Act,” referred to in (5), is Part F of Title IV of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 47-321 through 47-326.

Subchapter VIII. District of Columbia Convention Center and Sports Arena Authorization.

§ 47-396.1. Expenditure of revenues for Convention Center activities.

(a) *Permitting expenditure without appropriation.* — The fourth sentence of § 47-304 shall not apply with respect to any revenues of the District of Columbia which are attributable to the enactment of Title III of the Washington Convention Center Authority Act of 1994 (D.C. Law 10-188) and which are obligated or expended for the activities described in subsection (b) of this section.

(b) *Activities described.* — The activities described in this subsection are:

(1) The operation and maintenance of the existing Washington Convention Center; and

(2) Preconstruction activities with respect to a new convention center in the District of Columbia, including land acquisition and the conducting of environmental impact studies, architecture and design studies, surveys, and site acquisition. (Sept. 6, 1995, 109 Stat. 267, Pub. L. 104-28, § 101; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — “Title III of the Washington Convention Center Authority Act of 1994 (D.C. Law 10-188),” referred to in sub-

section (a), is §§ 301 through 306 of D.C. Law 10-188, codified at §§ 47-1807.1, 47-1807.2a, 47-1808.3 [repealed], 47-1808.3a, 47-2002, 47-

2002.1, 47-2002.2, 47-2202, 47-2202.1, 47-2202.2, and 47-3206, and notes thereto.

Waiver of Congressional review. — For provisions waiving Congressional review of the

Arena Tax Payment and Use Amendment Act of 1995, see § 301 of Pub. Law 104-28, 109 Stat. 270.

§ 47-398.1. Permitting designated authority to borrow funds for preconstruction activities relating to gallery place sports arena.

(a) *Permitting borrowing.*

(1) *In general.* — The designated authority may borrow funds through the issuance of revenue bonds, notes, or other obligations which are secured by revenues pledged in accordance with paragraph (2) of this subsection to finance, refinance, or reimburse the costs of arena preconstruction activities described in § 47-398.4 if the designated authority is granted the authority to borrow funds for such purposes by the District of Columbia government.

(2) *Revenue required to secure borrowing.* — The designated authority may borrow funds under paragraph (1) of this subsection to finance, refinance, or reimburse the costs of arena preconstruction activities described in § 47-398.4 only if such borrowing is secured (in whole or in part) by the pledge of revenues of the District of Columbia which are attributable to the sports arena tax imposed as a result of the enactment of D.C. Law 10-128 (as amended by the Arena Tax Amendment Act of 1994 (D.C. Act 10-315)) and which are transferred by the Mayor of the District of Columbia to the designated authority pursuant to § 47-2752(a-1)(3).

(b) *Treatment of debt created.* — Any debt created pursuant to subsection (a) of this section shall not:

(1) Be considered general obligation debt of the District of Columbia for any purpose, including the limitation on the annual aggregate limit on debt of the District of Columbia under § 47-313(b);

(2) Constitute the lending the public credit for private undertakings for purposes of § 1-233(a)(2); or

(3) Be a pledge of or involve the full faith and credit of the District of Columbia.

(c) *Designated authority defined.* — The term “designated authority” means the Redevelopment Land Agency or such other District of Columbia government agency or instrumentality designated by the Mayor of the District of Columbia for purposes of carrying out any Arena preconstruction activities. (Sept. 6, 1995, 109 Stat. 268, Pub. L. 104-28, § 201; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-398.2, 47-398.3, and 47-398.4.

References in text. — The reference in subsection (a)(2) to the “provisions of D.C. Law 10-128 as amended by the Arena Tax Amendment Act of 1994 (D.C. Act 10-315)” is reference to §§ 301 through 304 of D.C. Law 10-128 as

amended by D.C. Law 10-189, which are codified as §§ 47-2751 through 47-2753 and notes to § 47-2751.

Limitation on borrowing to be financed by Arena Tax. — For temporary limitation on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena, see § 4 of the Real

Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, October 26, 1995, 42 DCR 6054).

Designation of Designated Authority Under P.L. 104-28, the District of Columbia Convention Center and Sports Arena Authorization Act of 1995. — See Mayor's Order 96-2, January 9, 1996 (43 DCR 315).

Delegation of Authority Under P.L. 104-28, the District of Columbia Convention Center and Sports Arena Authorization Act of 1995. — See Mayor's Order 96-3, January 9, 1996 (43 DCR 317).

§ 47-398.2. Permitting certain District revenues to be pledged as security for borrowing.

(a) *In general.* — The District of Columbia (including the designated authority described in § 47-398.1(c)) may pledge as security for any borrowing undertaken pursuant to § 47-398.1(a) any revenues of the District of Columbia which are attributable to the sports arena tax imposed as a result of the enactment of D.C. Act 10-128 (as amended by the Arena Tax Amendment Act of 1994 (D.C. Act 10-315)), upon the transfer of such revenues by the Mayor of the District of Columbia to the designated authority pursuant to § 47-2752(a-1)(3).

(b) *Exclusion of pledged revenues from calculation of annual aggregate limit on debt.* — Any revenues pledged as security by the District of Columbia pursuant to subsection (a) of this section shall be excluded from the determination of the dollar amount equivalent to 14% of District revenues under § 47-313(b)(3)(A). (Sept. 6, 1995, 109 Stat. 269, Pub. L. 104-28, § 202; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-398.3.

References in text. — The reference in subsection (a) to the "provisions of D.C. Law 10-128 as amended by the Arena Tax Amend-

ment Act of 1994 (D.C. Act 10-315)" is a reference to §§ 301 through 304 of D.C. Law 10-128 as amended by D.C. Law 10-189, which are codified as §§ 47-2751 through 47-2753 and notes to § 47-2751.

§ 47-398.3. No appropriation necessary for arena preconstruction activities.

The fourth sentence of section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (§ 47-304) shall not apply with respect to any of the following obligations or expenditures:

- (1) Borrowing conducted pursuant to § 47-398.1(a);
- (2) The pledging of revenues as security for such borrowing pursuant to § 47-398.2(a);
- (3) The payment of principal, interest, premium, debt servicing, contributions to reserves, or other costs associated with such borrowing; or
- (4) Other obligations or expenditures made to carry out any arena preconstruction activity described in § 47-398.4. (Sept. 6, 1995, 109 Stat. 269, Pub. L. 104-28, § 203; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-398.4. Arena preconstruction activities described.

The arena preconstruction activities described in this section are as follows:

(1) The acquisition of real property (or rights in real property) to serve as the site of the sports arena and related facilities;

(2) The clearance, preparation, grading, and development of the site of the sports arena and related facilities, including the demolition of existing buildings;

(3) The provision of sewer, water, and other utility facilities and infrastructure related to the sports arena;

(4) The financing of a Metrorail connection to the site and other Metrorail modifications related to the sports arena;

(5) The relocation of employees and facilities of the District of Columbia government displaced by the construction of the sports arena and related facilities;

(6) The use of environmental, legal, and consulting services (including services to obtain regulatory approvals) for the construction of the sports arena;

(7) The financing of administrative and transaction costs incurred in borrowing funds pursuant to § 47-398.1(a), including costs incurred in connection with the issuance, sale, and delivery of bonds, notes, or other obligations; and

(8) The financing of other activities of the District of Columbia government associated with the development and construction of the sports arena, including the reimbursement of the District of Columbia government or others for costs incurred prior to September 6, 1995, which were related to the sports arena, so long as the designated authority determines that such costs are adequately documented and that the incurring of such costs was reasonable. (Sept. 6, 1995, 109 Stat. 269, Pub. L. 104-28, § 204; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-398.1 and 47-398.3.

Emergency act amendments. — For a temporary limit on the amount of borrowing to be financed by the Arena Tax for the purpose of

construction and financing of the Arena, see § 1303 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

§ 47-398.5. Limitation on amount of borrowing financed by arena tax.

Notwithstanding any other provision of law, the amount of borrowing associated with the arena development and construction costs, including, but not limited to, land acquisition, construction, predevelopment, off-site infrastructure, and financing for capital interest and principal, may not exceed \$61 million, to be paid from proceeds of the arena tax, established pursuant to § 47-2751 *et seq.* (Feb. 10, 1996, D.C. Law 11-86, § 4, 42 DCR 6798; Mar. 5, 1996, D.C. Law 11-98, § 1303, 43 DCR 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary addition of section. — Section 4 of D.C. Law 11-86 added this section.

Section 6(b) of D.C. Law 11-86 provided that

the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For tem-

porary addition of section, see § 4 of the Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, October 26, 1995, 42 DCR 6054), § 4 of the Real Property Tax Rates for Tax Year 1996 Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-183, January 22, 1996, 43 DCR 376), and § 1303 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

Legislative history of Law 11-86. — Law 11-86, the “Real Property Tax Rates for Tax

Year 1996 Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-457. The Bill was adopted on first and second readings on October 10, 1995, and November 7, 1995, respectively. Approved without the signature of the Mayor on November 29, 1995, it was assigned Act No. 11-165 and transmitted to both Houses of Congress for its review. D.C. Law 11-86 became effective on February 10, 1996.

Legislative history of Law 11-98. — See note to § 47-319.1.

CHAPTER 4. COLLECTION AND DISBURSEMENT OF TAXES.

Subchapter I. General Provisions.

Sec.

- 47-401. Required bond for Collector of Taxes.
- 47-402. Deputy Collector of Taxes.
- 47-403. Cashier in Collector's office.
- 47-404. Account books of Collector.
- 47-405. Certificate of taxes and assessments due; furnishment; fee.
- 47-406. Powers of Mayor — Adjustment of certain rates.
- 47-407. Same — Waiver of interest and penalties.
- 47-408. Same — Omission from records of uncollectible taxes and assessments.
- 47-409. Disbursement of taxes and appropriations; settlement of accounts.
- 47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts.
- 47-411. Trust fund deposits and disbursements.
- 47-412. Applicability of personal property tax provisions.
- 47-413. Jeopardy assessment and collection.
- 47-414. Abatement of taxes.

Subchapter II. Payments for Information Leading to Revenue Recovery.

- 47-421. Definitions.
- 47-422. Authority to make payments.
- 47-423. Authority to contract for payments.
- 47-424. Persons ineligible to file claims.
- 47-425. Rules and regulations.

Subchapter III. Reciprocal Recovery of Taxes.

- 47-431. Right of states to sue in District; certificate of authorized official conclusive proof of authority.

Sec.

- 47-432. Right of District to sue in states; authority of Mayor to secure services.
- 47-433. Definitions.

Subchapter IV. Multistate Tax Compact.

- 47-441. Adopted; form.
- 47-442. Appointment to Multistate Tax Commission; alternate.
- 47-443. Existing District tax laws and regulations not affected.
- 47-444. Audits.
- 47-445. Rules and regulations.
- 47-446. Implementation subject to appropriations.

Subchapter V. Amnesty.

- 47-451. Amnesty.
- 47-452. Establishment and application; availability; publicity.
- 47-453. Interest.
- 47-454. Substantial understatement penalty.
- 47-455. Failure to file or pay penalty.
- 47-456. Fraud penalty.
- 47-457. Garnishment.
- 47-458. Deficiencies; collection.
- 47-459. Rules.
- 47-459.1. Amnesty.

Subchapter VI. Tax Revision Commission.

- 47-461. Council findings.
- 47-462. Tax Revision Commission — Established; submission of recommendations.
- 47-463. Same — Composition; selection of Director.
- 47-464. Same — Authority.

Subchapter I. General Provisions.

§ 47-401. Required bond for Collector of Taxes.

The Collector of Taxes before entering upon his duties shall execute a bond in the sum of \$100,000, with sufficient surety or sureties, to be approved by the Mayor of the District of Columbia conditioned for the faithful performance of the duties of his office. (Leg. Assem., Aug. 23, 1871, ch. 108, § 7; June 20, 1874, 18 Stat. 116, ch. 337, § 2; 1973 Ed., § 47-302; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. — The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of

1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred in the Director, Department of General Administration by Reorganization Order

No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia and depositing the same with the

Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer pursuant to § 47-316 on March 5, 1981.

§ 47-402. Deputy Collector of Taxes.

The Deputy Collector of Taxes shall perform such duties as may be required of him by the Collector, and the Collector may require the said Deputy Collector to give bond for the faithful performance of his duties; but the Collector shall in every respect be responsible, as now provided by law, to the United States, the District of Columbia, and to individuals, as the case may be, for all moneys collected. (June 11, 1896, 29 Stat. 394, ch. 419; 1973 Ed., § 47-303; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. —
See note to § 47-401.

§ 47-403. Cashier in Collector's office.

The cashier (in the Collector's office) shall, in the necessary absence or inability of the Collector from any cause, perform his duties without any additional compensation; and the Collector may require the said cashier to give bond for the faithful performance of such duties during the absence or inability of the Collector; but the Collector shall in every respect be responsible, as now provided by law, to the United States, the District of Columbia, and to individuals, as the case may be, for all moneys collected. (Aug. 6, 1890, 26 Stat. 294, ch. 724; 1973 Ed., § 47-304; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. —
See note to § 47-401.

§ 47-404. Account books of Collector.

(a) It shall be the duty of the Collector to keep in his office account books, in which shall be entered:

- (1) The dates of payment of all taxes;
- (2) The amounts paid;

- (3) The names of the persons by whom payment has been made;
- (4) The years paid for;
- (5) The property paid on; and
- (6) The names of the persons to whom assessed.

(b) His books shall at all times be open to the inspection of any officer who may be authorized by the Mayor of the District of Columbia to examine the same. (Leg. Assem., Aug. 23, 1871, ch. 108, § 1; June 20, 1874, 18 Stat. 116, ch. 337, § 2; 1973 Ed., § 47-305; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. —
See note to § 47-401.

§ 47-405. Certificate of taxes and assessments due; furnishment; fee.

The Collector of Taxes shall furnish whenever called upon, a certified statement, over his hand and official seal, of all taxes and assessments, general and special, that may be due at the time of making said certificate; and said certificate when furnished shall be a bar to the collection and recovery from any subsequent purchaser of any tax or assessment omitted from and which may be a lien upon the real estate mentioned in said certificate, and said lien shall be discharged as to such subsequent purchaser, but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same, mentioned in said certificate. The charge for each certificate of taxes so issued shall be \$6. (Feb. 6, 1879, 20 Stat. 283, ch. 50; May 13, 1892, 27 Stat. 37, ch. 74; Mar. 3, 1917, 39 Stat. 1005, ch. 160; Mar. 3, 1925, 43 Stat. 1222, ch. 477; June 25, 1938, 52 Stat. 1202, ch. 702, § 11; 1973 Ed., § 47-306; Mar. 16, 1978, D.C. Law 2-57, § 2, 24 DCR 5426; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-57. — Law 2-57, the "Tax Certificate Issuance and Return Duplicating User Charges Act of 1977," was introduced in Council and assigned Bill No. 2-201, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 8, 1977

and November 22, 1977, respectively. Signed by the Mayor on December 15, 1977, it was assigned Act No. 2-122 and transmitted to both Houses of Congress for its review.

Office of Collector of Taxes abolished. —
See note to § 47-401.

§ 47-406. Powers of Mayor — Adjustment of certain rates.

The Mayor of the District of Columbia is hereby authorized from time to time to adjust the rates to be charged for issuing certificates of real estate taxes and assessments due and for duplicating District of Columbia tax returns. Notice of changes in such rates shall be published in accordance with the provisions of § 1-1501 *et seq.* and, in addition, shall be filed with the Council of the District of Columbia at least 30 days prior to their effective date. (1973 Ed., § 47-306.1; Mar. 16, 1978, D.C. Law 2-57, § 5, 24 DCR 5426; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-57. — See note to § 47-405.

§ 47-407. Same — Waiver of interest and penalties.

The Mayor of the District of Columbia is authorized, in his discretion, to waive, in whole or in part, interest or penalties, or both, on unpaid taxes and special assessments due the District of Columbia, when, in his judgment, such action would be equitable or just or in the public interest. (June 25, 1938, 52 Stat. 1201, ch. 702, § 7; 1973 Ed., § 47-307; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to refund of taxes erroneously paid and money deposited for licenses, see §§ 47-1317 and 47-1318.

§ 47-408. Same — Omission from records of uncollectible taxes and assessments.

The Mayor of the District of Columbia is authorized to direct the Collector of Taxes of the District of Columbia to omit from his records as assets of the District of Columbia any and all taxes, real and personal, and all special assessments which the Mayor may determine are uncollectible, but such determination on the part of the Mayor or the failure of the Collector to carry such taxes on his records as assets shall not affect the liability of the taxpayer for the payment of said taxes. (June 25, 1938, 52 Stat. 1202, ch. 702, § 10; 1973 Ed., § 47-308; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-409. Disbursement of taxes and appropriations; settlement of accounts.

All taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations made by Congress for the expenses of the District of Columbia, shall be disbursed for the expenses of said District, on itemized vouchers, which shall have been audited and approved by the Auditor of the District of Columbia, certified by the Mayor of the District of Columbia; and the accounts of the Mayor, and the tax collectors, and all other officers required to account, shall be settled and adjusted by the General Accounting Office. (June 11, 1878, 20 Stat. 105, ch. 180, § 4; June 10, 1921, 42 Stat. 24, ch. 18, § 305; 1973 Ed., § 47-309; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-111 and 47-410.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts.

All moneys appropriated for the expenses of the government of the District of Columbia, together with all revenues of the District of Columbia from taxes or otherwise, shall be deposited in the Treasury of the United States, as required by the provisions of § 47-409, and shall be drawn therefrom only on requisition of the Mayor of the District of Columbia (except that the moneys appropriated for interest and the sinking fund shall be drawn therefrom only on the requisition of the Treasurer of the United States), such requisition specifying the appropriation upon which the same is drawn; and in no case shall such appropriation be exceeded either in requisition or expenditure; and the accounts for all disbursements of the Mayor of said District shall be made monthly to the General Accounting Office by the Auditor of the District of Columbia, on vouchers certified by the Mayor, as required by law. (July 1, 1882, 22 Stat. 144, ch. 263, § 3; Mar. 3, 1883, 22 Stat. 470, ch. 95, § 2; June 10, 1921, 42 Stat. 24, ch. 18, § 304; 1973 Ed., § 47-310; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-411. Trust fund deposits and disbursements.

(a) All moneys received by the Collector of Taxes of the District of Columbia in the nature of trust fund deposits, the disposition of which is not provided for by law, and which had been on April 27, 1904, deposited by said Collector with the Treasurer of the United States to the official credit of the Disbursing Officer of the District of Columbia, shall be deposited by the said Collector in the Treasury of the United States to the credit of a permanent appropriation account, to be known and designated as "Miscellaneous Trust Fund Deposits, District of Columbia."

(b) Necessary advances from said permanent appropriation account shall be made by the Secretary of the Treasury to the Disbursing Officer of the District of Columbia, upon requisition of the Mayor of the District of Columbia for such amounts as may be required from time to time for necessary disbursements. The said Disbursing Officer shall make disbursements from such advances only upon itemized vouchers duly audited and approved by the Auditor of the District of Columbia, and the accounts of said Disbursing Officer for all such disbursements shall be rendered to and audited by the General Accounting Office.

(c) It shall be the duty of the Auditor of the District of Columbia to keep separate accounts with each depositor for all trust fund deposits received and deposited in accordance with the provisions of this section, showing the amounts received and deposited and the payments made on each individual account. (Apr. 27, 1904, 33 Stat. 368, ch. 1628; June 10, 1921, 42 Stat. 24, ch. 18, § 304; 1973 Ed., § 47-311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to federal advances to meet general expenses of District, see § 47-3401.

Office of Collector of Taxes abolished. — See note to § 47-401.

Disbursing Office abolished. — See note to § 47-111.

§ 47-412. Applicability of personal property tax provisions.

In addition to any other methods or devices or both provided by law or regulation for the collection of various taxes (except real property taxes) due the District, any tax imposed by any law applicable to District taxes, and penalties and interest thereon, when such tax has become due and payable, may be collected in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection; and liens for all such taxes, penalties, and interest may be acquired in the same manner that liens for personal property taxes are acquired. (May 18, 1954, 68 Stat. 119, ch. 218, title XVI, § 1601; 1973 Ed., § 47-312; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-935, 47-915, 47-1806.6, and 47-2408.

Procedure for acquiring of personal property taxes lien. — The District's lien for personal property taxes does not merely arise

from the fact of a delinquency; the lien must be "acquired" either by the filing of a certificate of delinquency with the Recorder of Deeds or by the more immediate means of distraint. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

§ 47-413. Jeopardy assessment and collection.

If the assessing authority of the District believes that the collection of any tax imposed by any law applicable to the District government (except real property taxes) will be jeopardized by delay, the assessing authority shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all the interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest, shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Collector of Taxes for the District for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful. For the purposes of this section, the term "assessing authority" means the Assessor, the Board of Personal Tax Appraisers or any member thereof, and any other official or officials of the District, or their duly authorized representatives, having the duty to assess District taxes. (May 18, 1954, 68 Stat. 120, ch. 218, title XVI, § 1602; 1973 Ed., § 47-313; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-935, 47-915, and 47-2408.

Office of Collector of Taxes abolished. — See note to § 47-401.

Board of Personal Tax Appraisers abolished. — The Board of Personal Tax Apprais-

ers was abolished by Organization Order No. 121, dated December 12, 1957. This Order continued the Finance Office, under the Department of General Administration, composed of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Divi-

sion, Accounting Division, and Data Processing Division, and also established a Board of Equalization and Review. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within the newly established Department of General Administration and also established a Board of Equalization and Review in the Finance Office, composed of the Finance Officer as Chairman, and 2 or more qualified persons who are conversant with real estate values in the District of Columbia, to be designated by the Finance Officer with the approval of the Director of General Administration. Under the provisions of the Order, the Board of Equalization and Review was empowered to review and equalize real estate assessments, hear complaints against real estate assessments and take appropriate action, and to transmit equalized assessments to the Commissioner for approval. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The latter Order also provided that the Director of the Department of Finance and Revenue serve on the Board of Equalization and Review (now the Board of Real Property Assessments and Appeals).

Office of Assessor abolished. — The Office of Assessor was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Assessor including the functions of

all officers, employees and subordinate agencies were transferred to the Department of General Administration by Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, abolished the Office of the Assessor and transferred the functions to the Finance Office in the Department of General Administration. The same Order provided that an Office of the Assessor would be created in the Finance Office. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officers, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) shall continue under the direction and control of the Director of General Administration, and prescribed the functions thereof. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969.

Cited in *Karriem v. Gray*, App. D.C., 623 A.2d 112 (1993).

§ 47-414. Abatement of taxes.

The Mayor of the District of Columbia is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, other than taxes on real property, if the Mayor determines under uniform rules prescribed by him that the administration and collection costs involved would not warrant collection of the amount due. (Sept. 30, 1966, 80 Stat. 858, Pub. L. 80-610, title IX, § 901; 1973 Ed., § 47-314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Subchapter II. Payments for Information Leading to Revenue Recovery.

§ 47-421. Definitions.

For the purposes of this subchapter, the following words, terms, phrases, and their derivations shall have the meanings respectively ascribed to them in this section unless the context clearly indicates otherwise:

(1) "Collection" or "collected" means the actual receipt by or payment to the District of Columbia of a sum of money representing taxes, penalties, or interest or any combination thereof which has been finally determined as being owed to the District of Columbia or which has been paid pursuant to a settlement.

(2) "Net taxes, penalties, and interest" means the taxes, penalties, and interest collected by the District of Columbia less the costs incurred by the District of Columbia in collecting such taxes, penalties, and interest.

(3) "Revenue laws" means Chapter 18 of this title, the District of Columbia Revenue Act of 1937, as amended, any other tax or revenue law of the District of Columbia, and any rule or regulation adopted pursuant thereto. (1973 Ed., § 47-331; Sept. 23, 1977, D.C. Law 2-20, § 2, 24 DCR 3339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-20. — Law 2-20, the "Revenue Recovery Act of 1977," was introduced in Council and assigned Bill No. 2-21, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 3, 1977 and June 14, 1977, respectively. Signed by the Mayor on July 5, 1977, it was assigned Act No. 2-51 and transmitted to both Houses of Congress for its review.

References in text. — The District of Co-

lumbia Revenue Act of 1937, referred to in paragraph (3) of this section, is 50 Stat. 673, ch. 690, approved August 17, 1937.

Appropriation. — Section 111 of Pub. L. 104-194, 110 Stat. 2365, the District of Columbia Appropriations Act, 1997, provided that there are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977.

§ 47-422. Authority to make payments.

The Mayor of the District of Columbia, or his or her duly authorized representative or representatives, is authorized to make such monetary payments as he or she may deem suitable to any person or persons who furnish information leading to the collection of taxes, penalties, or interest, or a combination thereof, owed to the District of Columbia by any person, partnership, corporation, unincorporated association, trust, or estate violating the revenue laws of the District of Columbia. The determinations of the Mayor as to whether such payments shall be made and as to the amount thereof shall be final and conclusive and shall not be subject to review in any court. The amount of any such payment shall not exceed 10% of the net taxes, penalties, and interest or any combination thereof collected by the District of Columbia as a result of the information furnished. Such payments shall be based on the collection of taxes, penalties, and interest, or any combination thereof, only for the periods and the types of taxes for which the information was provided. In no event shall any such payment be made prior to the expiration of all appeal periods applicable to the assessments involved. (1973 Ed., § 47-332; Sept. 23, 1977, D.C. Law 2-20, § 3, 24 DCR 3339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-20. — See note to § 47-421.

Appropriations authorized. — Section

111 of Pub. L. 104-194, 110 Stat. 2365, the District of Columbia Appropriations Act, 1997, provided that there are appropriated from the

applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by this subchapter.

§ 47-423. Authority to contract for payments.

The Mayor may enter into contracts for the payment of such sums of money as he or she may deem suitable for information subject to the provisions of this subchapter. No person, in the absence of express authority from the Mayor, is authorized to make any offer, promise, or contract or otherwise bind the Mayor with respect to such payments or the amount thereof. (1973 Ed., § 47-333; Sept. 23, 1977, D.C. Law 2-20, § 4, 24 DCR 3339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-20. — See note to § 47-421.

§ 47-424. Persons ineligible to file claims.

The following persons shall be ineligible to file a claim for any monetary payment authorized by this subchapter:

(1) *Federal, District of Columbia, and other governmental employees.* — No person who was an officer or employee of the United States Department of the Treasury, the District of Columbia Department of Finance and Revenue, or any other state or local government department, agency, or office with similar functions, duties, or obligations at the time he or she came into possession of information relating to violations of the revenue laws, or at the time he or she divulged such information, shall be eligible to file a claim for any payment authorized by this subchapter. Any other federal, District of Columbia, or other state or local government employee, or former employee, shall be eligible to file a claim for any payment authorized by this subchapter if the information submitted came to his or her knowledge other than in the course of his or her duties, except as otherwise provided in this section.

(2) *Attorneys.* — No person who was employed by, retained by, or appointed to represent any other person as an attorney or who was otherwise involved in an attorney-client privileged relationship with such other person at the time he or she came into possession of information relating to violations of a revenue law, or connivance at the same, by such other person shall be eligible to file a claim for any payment authorized by this subchapter.

(3) *Legal representatives.* — No person who was an executor, administrator, or other legal representative of a deceased person at the time he or she came into possession of information relating to violations of a revenue law by such deceased person shall be eligible to file a claim for any payment authorized by this subchapter.

(4) *Other persons.* — No person who derived, either directly or indirectly, information relating to violations of a revenue law from a person ineligible to file a claim for any payment authorized by this subchapter shall be eligible to file a claim for such payment. (1973 Ed., § 47-334; Sept. 23, 1977, D.C. Law 2-20, § 5, 24 DCR 3339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-20. — See note to § 47-421.

§ 47-425. Rules and regulations.

The Mayor shall promulgate such rules and regulations as may be necessary to carry out the purposes of this subchapter. (1973 Ed., § 47-335; Sept. 23, 1977, D.C. Law 2-20, § 6, 24 DCR 3339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-20. — See note to § 47-421.

Subchapter III. Reciprocal Recovery of Taxes.

§ 47-431. Right of states to sue in District; certificate of authorized official conclusive proof of authority.

(a) Any state, acting through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it in any case in which such reciprocal right is accorded to the District of Columbia by such state, whether such right is granted by statutory authority or as a matter of comity.

(b) The certificate of the secretary of state, or of any other authorized official, of such state, or any subdivision thereof, to the effect that the official instituting a suit authorized under subsection (a) of this section for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of such authority. (1973 Ed., § 47-341; Sept. 27, 1978, 92 Stat. 751, Pub. L. 95-387, § 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-433.

§ 47-432. Right of District to sue in states; authority of Mayor to secure services.

(a) In any state, or any subdivision thereof, in which the District of Columbia is authorized under the laws of such state to bring suit for the purpose of recovering taxes lawfully due and owing the District of Columbia, the Corporation Counsel is authorized to bring such suit in the name of the District of Columbia in the courts of such state, or any subdivision thereof.

(b) In connection with any such suit, the Mayor of the District of Columbia is authorized to secure professional and other services at such rates as may be usual and customary for such services in the jurisdiction involved. (1973 Ed., § 47-342; Sept. 27, 1978, 92 Stat. 751, Pub. L. 95-387, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-433.

§ 47-433. Definitions.

For purposes of this subchapter:

(1) The term “taxes” means:

(A) Any tax assessment lawfully made, whether based upon a return or any other disclosure of the taxpayer or upon the information and belief of the taxing authority involved;

(B) Any penalty lawfully imposed pursuant to any law, ordinance, or regulation which imposes a tax; or

(C) Any interest charge lawfully added to the tax liability which constitutes the subject of any suit brought under § 47-431 or 47-432.

(2) The term “state” means any of the several states, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States. (1973 Ed., § 47-343; Sept. 27, 1978, 92 Stat. 751, Pub. L. 95-387, § 4; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Subchapter IV. Multistate Tax Compact.

§ 47-441. Adopted; form.

The Multistate Tax Compact is adopted and entered into with all jurisdictions legally joining therein, in the form substantially set forth as follows:

Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including equitable apportionment of tax bases and settlement of apportionment disputes.

2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation.

Article II. Definitions.

1. “State” means a state of the United States, District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

2. “Subdivision” means any governmental unit or special district of a state.

3. “Taxpayer” means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by not deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price, by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and alloca-

tion that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Coverage.

2. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plan, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water, or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state, or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed, or, in the case of application of this article, to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this

article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this article.

5.(a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6.(a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state, and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8.(a) Patent and copyright royalties are allocable to this state (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state, or to the extent that a patented product is produced in the state. If the basis of

receipts from patent royalties does not permit allocation to states, or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect state of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor, plus the payroll factor, plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;
(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates.

Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1.(a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall

provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that state.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provisions for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions, any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The Commission annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

Committees.

2.(a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer, and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4.(a) The Commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such

budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article; provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1 (i), the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained in this article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents, may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, documents, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within the state of which he is a resident; provided that such state has adopted this article.

4. The Commission may apply through the Mayor of the District of Columbia, to any court in the District of Columbia having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article, if the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the courts of the District of Columbia. The Commission may apply for such order to the courts of the state or subdivision thereof, other than the District of Columbia, on behalf of which the audit is being made, or in which the party or subject matter being sought is situated, to the extent that the Commission is authorized to do so by the laws of such other state. Failure of any person to obey any such order shall be punishable as contempt of the issuing court.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

6. Information obtained by an audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Entry into Force and Withdrawal.

1. This compact shall enter into force when enacted by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The Commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article X. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII, 9. may apply for the purposes of that article and the Commission's powers of study and recommendation pursuant to Article VI, 3. may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XI. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the

constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby if this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. (July 18, 1981, D.C. Law 4-17, § 2, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-443 and 47-444.

Legislative history of Law 4-17. — Law 4-17, the “Multistate Tax Compact Membership Act of 1981,” was introduced in Council and assigned Bill No. 4-51, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 7, 1981 and May 5, 1981, respectively. Signed by the Mayor on May 21, 1981, it was assigned Act No. 4-32 and transmitted to both Houses of Congress for its review.

If property had integral function in taxpayer's unitary business, its income properly can be apportioned and taxed as business income, even though the transaction itself does not reflect the taxpayer's normal trade or business. *District of Columbia v. Pierce Assocs.*, App. D.C., 462 A.2d 1129 (1983).

Insurance proceeds taxpayer received as compensation for flood damage to its Virginia plant are taxable as business income under this section. *District of Columbia v. Pierce Assocs.*, App. D.C., 462 A.2d 1129 (1983.).

§ 47-442. Appointment to Multistate Tax Commission; alternate.

The Mayor, with the advice and consent of the Council, shall appoint a person who shall be the District of Columbia member of the Multistate Tax Commission. Such person may designate an alternate who may represent him on the Commission and who shall be a deputy or principal assistant of the agency headed by the designated member. (July 18, 1981, D.C. Law 4-17, § 3, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-17. — See note to § 47-441.

§ 47-443. Existing District tax laws and regulations not affected.

Nothing contained in this subchapter shall be construed to repeal or otherwise limit the effectiveness of existing District of Columbia tax laws and regulations for which there are no corresponding provisions in the Uniform Division of Income provisions contained in Article IV of the Multistate Compact in § 47-441. (July 18, 1981, D.C. Law 4-17, § 4, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-17. — See note to § 47-441.

§ 47-444. Audits.

Article VIII of the Multistate Tax Compact, as set forth in § 47-441, shall be in full force and effect in and with respect to the District of Columbia. (July 18, 1981, D.C. Law 4-17, § 5, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-17. — See note to § 47-441.

§ 47-445. Rules and regulations.

The Mayor is authorized to promulgate rules and regulations necessary for the efficient administration of this subchapter. (July 18, 1981, D.C. Law 4-17, § 6, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-17. — See note to § 47-441. **4-17.** — See Mayor's Order 86-145, August 25, 1986.

Delegation of authority pursuant to Law

§ 47-446. Implementation subject to appropriations.

Notwithstanding any other provisions of this subchapter, the provisions of this subchapter shall not be implemented until and unless sufficient funds have been appropriated for any costs to be incurred by its implementation. (July 18, 1981, D.C. Law 4-17, § 7, 28 DCR 2368; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-17. — See note to § 47-441.

Subchapter V. Amnesty.

§ 47-451. Amnesty.

The provisions of this act shall apply to taxpayers liable for payment of:

- (1) Income and franchise taxes, including withholding taxes, imposed pursuant to the District of Columbia Income and Franchise Tax Act of 1947;
- (2) Inheritance and estate taxes imposed pursuant to Chapter 19 of this title;
- (3) Sales taxes imposed pursuant to Chapter 20 of this title;
- (4) Compensating-use taxes imposed pursuant to §§ 47-2201 through 47-2213;
- (5) Motor vehicle fuel taxes imposed pursuant to Chapter 23 of this title;
- (6) Cigarette taxes imposed pursuant to Chapter 24 of this title;
- (7) Gross receipts taxes imposed pursuant to § 47-2501;
- (8) Hotel occupancy taxes imposed pursuant to the Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977;
- (9) Personal property taxes imposed pursuant to An Act Making appropriations for the government of the District of Columbia and other activities

chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1923, and for other purposes and § 47-1507;

(10) Alcoholic beverage taxes imposed pursuant to Chapter 1 of Title 25;

(11) Estate taxes imposed pursuant to Chapter 37 of this title; and

(12) Personal property taxes imposed pursuant to the Personal Property Tax Amendment Act of 1986. (Feb. 28, 1987, D.C. Law 6-209, § 101, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-452, 47-453, 47-454, 47-455, 47-456, 47-457, and 47-458.

Legislative history of Law 6-209. — Law 6-209, the "Tax Amnesty Act of 1986," was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

References in text. — "This act," referred to in the introductory language, is D.C. Law 6-209.

The "District of Columbia Income and Franchise Tax Act of 1947," referred to in paragraph (1), is 61 Stat. 331.

The "Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977," referred to in paragraph (8), is D.C. Law 2-58.

"An Act Making appropriations for the government of the District of Columbia and other

activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1923, and for other purposes," referred to in paragraph (9), is 42 Stat. 669.

The "Personal Property Tax Amendment Act of 1986," referred to in paragraph (12), is D.C. Law 6-212.

Amnesty from tax liability for fiscal year beginning October 1, 1994. — For temporary authorization of the Mayor to provide amnesty to a taxpayer liable for the payment of a specific tax for which a return or report was required to be filed before October 1, 1994, see § 105 of D.C. Law 10-253. Section 1301(b) of D.C. Law 10-253 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Multiyear Budget Spending Reduction and Support Act of 1995, whichever occurs first.

Editor's notes. — Section 47-1507, referred to in paragraph (9), was repealed February 28, 1987, by D.C. Law 6-212, § 24, 33 DCR 850.

Cited in First Interstate Credit Alliance, Inc. v. District of Columbia, App. D.C., 604 A.2d 10 (1992).

§ 47-452. Establishment and application; availability; publicity.

(a) There is established a program of amnesty for taxpayers liable for the payment of the taxes specified in § 47-451 for which returns or reports were required to be filed before November 1, 1986.

(b) The tax amnesty program shall permit any taxpayer liable for payment of any of the taxes specified in § 47-451 to pay the full amount of the taxes, plus 50% of the interest otherwise due on these taxes, without the imposition of any fine or other civil or criminal penalty otherwise provided by law. The Mayor may, for good cause shown, waive the interest due under this subsection.

(c) Except as otherwise provided in subsection (d) of this section, the tax amnesty program provided under this section shall apply to tax liabilities due to filing of a false return, over-reporting of deductions, underreporting of items subject to taxation, nonreporting of tax liability, nonpayment of taxes, failure to file, and other instances of failure to pay the full amount owed.

(d) The tax amnesty program shall not apply to:

(1) Tax liabilities that are the subject of collection agreements with the Department of Finance and Revenue executed before November 1, 1986;

(2) Tax liabilities that are the subject of civil or criminal litigation commenced before November 1, 1986, except that a taxpayer liable for these taxes may become eligible for the tax amnesty program upon dismissal of the litigation with prejudice before September 30, 1987; and

(3) A taxpayer who fails to pay the full amount of the tax and interest required under subsection (b) of this section or engages in willful fraud in filing under the terms of the tax amnesty program.

(e) The tax amnesty program shall be available from July 1, 1987, through midnight September 30, 1987, and at no other time.

(f) A taxpayer may participate in the tax amnesty program by filing an application for amnesty with the Mayor, together with the applicable original or amended tax return or returns and a cashier's check, certified check, money order, or cash for the amount of unpaid tax and interest due as computed under subsection (b) of this section. The application for amnesty together with all accompanying documents must be filed in person or by mail postmarked no later than midnight September 30, 1987. The Mayor may, in his discretion, enter into an agreement to permit payment of the tax and the interest due as computed under subsection (b) of this section in installments by a taxpayer who files within the tax amnesty period an application for amnesty together with the applicable original or amended tax return or returns, but any agreement permitting payment of taxes and interest due in installments must be approved by the Mayor no later than September 30, 1987. Additional interest at a rate of 1½% per month, or fraction of a month, shall accrue during the term of the installment agreement on any unpaid amount of taxes.

(g) The Mayor shall publicize widely the terms and conditions of the tax amnesty program. (Feb. 28, 1987, D.C. Law 6-209, § 201, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-209. — See note to § 47-451.

§ 47-453. Interest.

If any tax specified in § 47-451, including tax withheld by an employer, is not paid on or before the last date prescribed for payment, without regard to any extension of time, interest at the rate of 1½% per month, or fraction of a month, shall be added to the tax from the date prescribed for its payment until the date paid. This section shall not apply if the tax due is less than \$1 or to any failure to pay estimated income tax under § 47-1813.1(d) or under § 47-1812.14(b). (Feb. 28, 1987, D.C. Law 6-209, § 301, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-456, 47-457, 47-458, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-1813.4, 47-2027, 47-2316, 47-2411.1, 47-3705, 47-3708, and 47-3718.

Legislative history of Law 6-209. — See note to § 47-451.

Effective date. — Section 601(b) of D.C.

Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

Payment of all taxes and interest accrued a prerequisite. — Section 47-3303, along with this section, impose upon the taxpayer an obligation to pay all taxes due, together with interest accruing until the time of

payment, before filing a petition challenging a notice of tax deficiency in the Superior Court. *First Interstate Credit Alliance, Inc. v. District of Columbia*, App. D.C., 604 A.2d 10 (1992).

The payment by a taxpayer of the total amount of deficiency shown on the notice of

assessment, which does not include the interest which accrued through the date of payment, is not enough to satisfy the jurisdictional requirement of § 47-3303. *First Interstate Credit Alliance, Inc. v. District of Columbia*, App. D.C., 604 A.2d 10 (1992).

§ 47-454. Substantial understatement penalty.

(a) In the case of a substantial understatement of a tax specified in § 47-451, there shall be added to the tax an amount equal to 20% of the amount of any underpayment attributable to the understatement.

(b) For purposes of this section, there is a substantial understatement of tax if the amount of the understatement exceeds the greater of:

- (1) 10% of the tax required to be shown on the return or report; or
- (2) \$2,000.

(c) For purposes of this section, the term "understatement" means the excess of the amount of tax required to be shown on a return or report, or determined through an audit or review, over the amount of tax imposed that is shown on any original or amended return, less any overpayment, credit, or refund.

(d) If satisfied that the understatement was due to reasonable cause, the Mayor may waive all or part of the penalty provided for in subsection (a) of this section.

(e) This section shall not apply to any failure to pay estimated income tax under § 47-1813.1(d) or under § 47-1812.14(b). (Feb. 28, 1987, D.C. Law, 6-209, § 302, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-457, 47-458, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-1813.4, 47-2027, 47-2316, 47-2411.1, 47-3705, 47-3708, and 47-3718.

Legislative history of Law 6-209. — See note to § 47-451.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-455. Failure to file or pay penalty.

(a) For failure to file a return or report required to be filed or for failure to pay a tax specified in § 47-451 within the time prescribed pursuant to law, there shall be added to any unpaid portion of the tax due an amount equal to 5% of the tax for each month or fraction of a month that the failure to file or pay continues, not to exceed 25% in the aggregate.

(b) If satisfied that the failure to file or pay was due to reasonable cause, the Mayor may waive all or any part of the penalty provided for in subsection (a) of this section. (Feb. 28, 1987, D.C. Law 6-209, § 303, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-457, 47-458, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-

1813.4, 47-2027, 47-2316, 47-2411.1, 47-3705, 47-3708, 47-3718, and 47-3722.

Legislative history of Law 6-209. — See 401, 402, 404, 405 and 406 of the act shall take note to § 47-451. effect on October 1, 1987.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections

§ 47-456. Fraud penalty.

If any part of any underpayment of tax required to be shown on a return or report for a tax specified in § 47-451 is due to fraud, there shall be added to the tax:

- (1) An amount equal to 75% of the underpayment; and
- (2) An amount equal to 50% of the interest payable under § 47-453. (Feb. 28, 1987, D.C. Law 6-209, § 304, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-457, 47-458, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-1813.4, 47-2027, 47-2316, 47-2411.1, 47-3705, 47-3708, and 47-3718.

Legislative history of Law 6-209. — See note to § 47-451.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-457. Garnishment.

Wages as defined in § 16-571 that are due or become due to any taxpayer shall be subject to attachment and garnishment by the Mayor for nonpayment after September 30, 1987, of any of the taxes specified in § 47-451 or the interest or penalties specified in §§ 47-453 through 47-458 in accordance with the procedures set forth in subchapter III of Chapter 5 of Title 16 and in accordance with applicable federal and District law. (Feb. 28, 1987, D.C. Law 6-209, § 305, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-458, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-1813.4, 47-2027, 47-2316, 47-2411.1, 47-3705, 47-3708, and 47-3718.

Legislative history of Law 6-209. — See note to § 47-451.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-458. Deficiencies; collection.

Interest and penalties imposed by §§ 47-453 through 47-458 for a tax specified in § 47-451 shall apply to any tax determined as a deficiency or delinquency and may be collected in the same manner as the tax specified in § 47-451. (Feb. 28, 1987, D.C. Law 6-209, § 306, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-457, 47-1509, 47-1531, 47-1813.1, 47-1813.2, 47-1813.3, 47-1813.4, 47-

2027, 47-2316, 47-2411.1, 47-3705, 47-3708, and 47-3718.

Legislative history of Law 6-209. — See 401, 402, 404, 405 and 406 of the act shall take note to § 47-451. effect on October 1, 1987.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections

§ 47-459. Rules.

The Mayor shall issue rules necessary to carry out the provisions of this act in accordance with subchapter I of Chapter 15 of Title 1. (Feb. 28, 1987, D.C. Law 6-209, § 501, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-209. — See note to § 47-451.

References in text. — “This act,” referred to in this section, is D.C. Law 6-209.

Delegation of authority under Law 6-209. — See Mayor’s Order 87-104, April 23, 1987.

§ 47-459.1. Amnesty.

(a) For the fiscal year beginning October 1, 1994, and ending September 30, 1995, the Mayor may provide amnesty to a taxpayer liable for the payment of a tax, the specific tax type to be determined by the Mayor, for which a return or report was required to be filed before October 1, 1994. The period of time for which an extension was granted for filing the return or report shall not be included in the time used to determine whether the return or report was required to be filed before October 1, 1994.

(b) The amnesty shall be from the imposition of any fine or other civil or criminal penalty and 50% of the accrued interest provided by law for the failure of the taxpayer to file a return or report, or pay a tax due for a tax type determined by the Mayor on a return or report that was required to be filed before October 1, 1994.

(c) To receive amnesty, the taxpayer shall file an application for amnesty with the Mayor on a form the Mayor prescribes. The application shall be filed with:

(1) The applicable original return or report that was required to be filed before October 1, 1994, but was not filed, or the applicable amended return or report that corrects a filed false or otherwise incorrect return or report that was required to be filed before October 1, 1994; and

(2) A certified or cashier’s check, money order, or cash for the full amount of the tax due for the tax type determined by the Mayor plus 50% of the interest accrued as provided by law for the return or report that was required to be filed before October 1, 1994, but was not filed, or for the tax due for a tax type determined by the Mayor, that was not paid on a return or report that was required to be filed before October 1, 1994.

(d) Except as provided in subsection (a) of this section, amnesty shall be provided for any tax due for a tax type determined by the Mayor on a return or report required to be filed before October 1, 1994, due to filing a false return, overreporting a deduction or exclusion, underreporting an item subject to taxation, nonreporting a tax liability, nonpayment of tax, failure to file a return or report, or another reason for failure to pay the full amount of tax due and owed for the return or report.

(e) A taxpayer shall not receive amnesty for:

(1) Any tax due that is the subject of a collection or closing agreement executed before October 1, 1994;

(2) Any tax due that is the subject of civil or criminal litigation commenced before October 1, 1994, except for tax due where the litigation is dismissed, with prejudice, before the last day of the amnesty period; or

(3) Any tax due for which the taxpayer fails to file the required form, return, or report pursuant to subsection (c)(1) of this section, fails to pay the full amount of the tax due and interest accrued as required pursuant to subsection (c)(2) of this section, or engages in fraud in filing a form, return, or report pursuant to subsection (c)(1) of this section.

(A) If a taxpayer engages in fraud in filing a return or report, any payment made with the application for amnesty shall be applied to the tax, penalty, and interest due, without regard to amnesty, for the tax type for which amnesty was sought by the taxpayer.

(B) The taxpayer, return, or report shall be subject to the same penalty, interest, assessment, enforcement, and other administrative provisions as the tax type for which amnesty was sought by the taxpayer.

(f) The Mayor is authorized, within the Mayor's broad discretion, to implement and administer the program for amnesty under this section.

(1) The Mayor may determine the specific tax types for which amnesty shall be granted, including, but not limited to the following tax types:

(A) Income and franchise taxes, including withholding taxes, imposed pursuant to subchapter I of Chapter 18 of this title;

(B) Sales tax imposed pursuant to Chapter 20 of this title;

(C) Use tax imposed pursuant to Chapter 22 of this title; and

(D) Personal property tax imposed pursuant to §§ 47-1508 and 47-1522.

(2) The Mayor may set the period for amnesty.

(3) The Mayor may provide amnesty for up to 100% of the accrued interest as provided by law, may require a taxpayer seeking amnesty to submit such documents or records as the Mayor deems necessary to determine the truthfulness or accuracy of a return or report filed pursuant to this section, may permit the payment of any tax due under this section in installments, or may subject any return or report filed pursuant to this section to the same audit procedures to which a return or report for the tax type is subjected.

(4) The Mayor is authorized to issue such rules and regulations as may be necessary to interpret, administer, and enforce the provisions of this section. (Sept. 26, 1995, D.C. Law 11-52, § 105, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary addition of section, see § 105 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned

Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

*Subchapter VI. Tax Revision Commission.***§ 47-461. Council findings.**

The Council of the District of Columbia finds that:

(1) Many District residents and businesses are already overburdened by current taxation levels.

(2) The health of the District's tax base and its potential for economic growth require the maintenance of a competitive tax burden between the District and neighboring jurisdictions.

(3) Present tax policies and laws are in need of evaluation with respect to their equitability, productivity, efficiency, and effect on economic growth;

(4) New or broadened revenue sources must be explored as possible substitutes for current uncompetitive rates to meet the District's revenue needs, but they must be evaluated carefully in terms of their equity and their effect on economic growth.

(5) The last comprehensive study of District taxes occurred in 1977, and more recent tax changes have been somewhat piecemeal and sometimes made without regard to the system as a whole or knowledge of long-term effects. (June 13, 1996, D.C. Law 11-143, § 2, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary addition of sections 47-461 through 47-464, see § 2-5 of the Tax Revision Commission Establishment Emergency Act of 1996 (D.C. Act 11-259, April 18, 1996, 43 DCR 2166).

Legislative history of Law 11-143. — Law 11-143, the "Tax Revision Commission Establishment Act of 1996," was introduced in Council and assigned Bill No. 11-383, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings

on March 5, 1996, and April 2, 1996, respectively. Signed by the Mayor on April 18, 1996, it was assigned Act No. 11-383 and transmitted to both Houses of Congress for its review. D.C. Law 11-143 became effective on June 13, 1996.

Council Taxation and Tax Policy Special Committee Emergency Establishment Resolution of 1996. — As to Resolution 11-287, the Council Taxation and Tax Policy Special Committee Emergency Establishment Resolution, see notes to § 1-227.

§ 47-462. Tax Revision Commission — Established; submission of recommendations.

(a) There is established a Tax Revision Commission ("Commission") with the purpose of preparing comprehensive recommendations to the Council and the Mayor which:

(1) Mitigate the current tax burden on taxpayers;

(2) Broaden the tax base; and

(3) Make the District's tax policy more competitive with surrounding jurisdictions.

(b) Specific functions of the Commission shall include the following:

(1) To analyze the District's current tax system in terms of revenue productivity and stability, efficiency, equity, simplicity of administration, and effect upon the District's economy;

(2) To propose innovative solutions for meeting the District's projected revenue needs while enabling the possibility that general rates might be reduced;

(3) To identify economic activities which are either beneficial or detrimental to the District's economy and which should be either encouraged or discouraged through tax policy;

(4) To recommend changes in the District's current tax policies and laws;

(5) To establish criteria and a conceptual framework for evaluating current and future taxes; and

(6) To conduct an analysis of a split rate approach to real property taxation together with a recommendation as to how it could be structured with minimal effect on taxes paid by the average taxpayer.

(c) The Commission shall submit its recommendations in the form of a report or reports similar in form and scope as those transmitted by the District of Columbia Tax Revision Commission by letter dated December 5, 1977, pursuant to Council Resolution 1-149. The report or reports shall be accompanied by draft legislation, regulations, amendments to existing regulations, or other specific steps for implementing the recommendations.

(d) The Commission shall submit to the Council and the Mayor emergency recommendations within 90 days of its appointment and its final report no later than 9 months after the Commission's appointment. (June 13, 1996, D.C. Law 11-143, § 3, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — See note to § 47-461.

Legislative history of Law 11-143. — See note to § 47-461.

§ 47-463. Same — Composition; selection of Director.

(a) The Commission shall be a nonpartisan Commission composed of 17 members drawn from experts in the field of taxation such as tax lawyers and public finance economists; several community representatives such as members of labor unions, public interest groups, civic associations, and tenant and housing associations; and representatives of important sectors of the business community such as real estate, banking, retailing, and public utilities.

(b) Eight members of the Commission shall be appointed by the Mayor, and 9 members shall be appointed by the Council. The Council shall appoint the Chairperson of the Commission from among the Council-appointed members of the Commission. All appointments shall be made within 60 days of June 13, 1996. A vacancy shall be filled in the same manner in which its initial appointment was made.

(c) The Commission, by a vote in which a majority of the members are in the affirmative, may select a Director who shall perform the duties required for the day-to-day functioning of the Commission as deemed necessary by the members, including, but not limited to, appointment of staff and selection of consultants.

(d) The Commission may appoint task forces composed of representatives from the District of Columbia, the State of Maryland, and the Commonwealth of Virginia.

(e) Each member of the Commission shall serve without compensation. Each member, however, may be reimbursed for actual expenses pursuant to

section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-612.8). (June 13, 1996, D.C. Law 11-143, § 4, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Temporary amendment of section. — Section 2 of D.C. Law 11-224 amended subsections (a) and (b) to read as follows:

“(a) The Commission shall be a nonpartisan Commission composed of 19 members drawn from experts in the field of taxation such as tax lawyers and public finance economists; several community representatives such as members of labor unions, public interest groups, civic associations, and tenant and housing associations; and representatives of important sectors of the business community such as real estate, banking, retailing, and public utilities.

“(b) Nine members of the Commission shall be appointed by the Mayor, and 10 members shall be appointed by the Council. The Council shall appoint the Chairperson of the Commission from among the Council-appointed members of the Commission. All appointments shall be made within 60 days of the effective date of this act. A vacancy shall be filled in the same manner in which its initial appointment was made.”

Section 4(b) of D.C. Law 11-224 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — See note to § 47-461.

For temporary amendment of section, see § 2 of the Tax Revision Commission Establishment Emergency Amendment Act of 1996 (D.C. Act 11-435, October 30, 1996, 43 DCR 6184), and § 2 of the Tax Revision Commission Establishment Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-30, March 11, 1997, 44 DCR 1902).

Section 4 of D.C. Act 12-30 provides for application of the act.

Legislative history of Law 11-143. — See note to § 47-461.

Legislative history of Law 11-224. — Law 11-224, the “Tax Revision Commission Establishment Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-897. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on November 25, 1996, it was assigned Act No. 11-443 and transmitted to both Houses of Congress for its review. D.C. Law 11-224 became effective on April 9, 1997.

§ 47-464. Same — Authority.

(a) The Chairperson of the Commission, or his or her designated representative, who must be a member of the Commission, shall convene all meetings of the Commission. Seven members of the Commission shall constitute a quorum. Voting by proxy shall not be permitted.

(b) The Commission shall have the authority to create and operate under its own rules of procedure, consistent with this act and the Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 et seq.).

(c) All recommendations and reports prepared and submitted by the Commission shall be a matter of public record.

(d) The Commission, or committees thereof, may, for the purpose of carrying out the provisions of this act, hold hearings, and shall sit and act at such times and places and administer oaths as required.

(e) The Commission shall have the authority to request directly from each department, agency, or instrumentality of the District Government, and each department, agency, or instrumentality is hereby authorized to furnish directly to the Commission upon its request, any information deemed necessary by the Commission to carry out its functions under this act.

(f) The Commission is authorized to use space and supplies owned or rented by the District government. The Commission is further authorized to use staff

loaned from the Council or detailed by the Mayor for such purposes consistent with this act as the Commission may determine.

(g) The Commission's operations shall be funded by annual appropriations, private sector assistance, or both.

(h) If a special fund is established by the Commission for the receipt of operating donations from non-government sources, the fund shall be administered in accordance with established funding and auditing procedures of the District government. The expenditure of such donations shall not be subject to appropriation. The Commission shall keep a record, available to the public for inspection, of all such donations and any substantial non-government in-kind contributions received. The record shall include the full name, address, and occupation or type of business of each donor. "Substantial non-government in-kind contributions" shall include any service reasonably valued at more than \$5,000 which is received from any source other than the District or federal government. (June 13, 1996, D.C. Law 11-143, § 5, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — See note to § 47-461.

Legislative history of Law 11-143. — See note to § 47-461.

References in text. — "This act" referred to in subsections (b), (d) and (e), is D.C. Law 11-143, which is codified at §§ 47-461 through 47-815.

CHAPTER 5. TAX RATES, RECORDS, AND SURPLUS FUNDS.

Sec.	Sec.
47-501. Tax on real and personal property.	of federal revenue; submission of budget estimates.
47-502. Account showing receipts and disbursements of revenues and expenditures.	47-504. Authority of Council to change certain tax rates.
47-503. Disposition of excess money; collection	

§ 47-501. Tax on real and personal property.

For the purpose of defraying such expenses of the District of Columbia as Congress may from time to time appropriate for, there hereby is levied for each and every fiscal year, a tax at such rate on the real and personal property subject to taxation in the District as will, when added to the other taxes and revenues of the District, produce money enough to enable the District to pay promptly and in full all sums directed by Congress to be paid by the District, and for which appropriation has been duly made; and the Council of the District of Columbia hereby is empowered and directed to ascertain, determine, and fix, annually for real property, and at such times as it may deem necessary for personal property, such rate of taxation as will, when applied as aforesaid, produce the money needed to defray the share of the expenses of the District during the year for which the rate is fixed; provided, that the rate of taxation on personal property levied for any tax year shall apply to succeeding tax years unless the Council acts to ascertain, determine and fix a different rate of taxation thereon in accordance with the provisions of this section; and the Mayor of the District shall, in accordance with existing law, cause all such taxes and revenues to be promptly collected and, when collected, to be daily deposited in the Treasury to the credit of the District for the purposes herein set out. (June 29, 1922, 42 Stat. 669, ch. 249; 1973 Ed., § 47-501; Sept. 13, 1980, D.C. Law 3-92, § 301, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority and procedure to establish real property tax rates, see § 47-811 et seq.

As to payment of real estate and personal property taxes, see § 47-1509.

Section references. — This section is referred to in § 47-811.

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Section applies only to property with a fixed, definite, and permanent taxable situs. *Queen City Brewing Co. v. District of Columbia*, 134 F.2d 44 (D.C. Cir.), cert. denied,

319 U.S. 767, 63 S. Ct. 1330, 87 L. Ed. 1716 (1943).

Bases for determining whether item is fixture or personalty. — In determining whether an item is a fixture or personalty the District of Columbia focuses on physical annexation and business purpose; the owner's intention is particularly unsuited for consideration in taxation matters. *Donahue v. District of Columbia*, App. D.C., 451 A.2d 85 (1982).

Computer "hardware" is subject to the tangible personal property tax. *District of Columbia v. Universal Computer Assocs.*, 465 F.2d 615 (D.C. Cir. 1972).

But computer "software" is not subject to the tangible personal property tax. *District of Columbia v. Universal Computer Assocs.*, 465 F.2d 615 (D.C. Cir. 1972).

Personal property tax on bankrupt for fiscal year 1954. — The personalty of a bankrupt, in the hands of his trustee in bankruptcy on July 1, 1954, was subject to the District's

personal property tax for the fiscal year commencing on that date. *Brown v. Collector of Taxes*, 247 F.2d 786 (D.C. Cir. 1957).

Cited in *District of Columbia v. General Fed'n of Women's Clubs*, 249 F.2d 503 (D.C. Cir. 1957).

§ 47-502. Account showing receipts and disbursements of revenues and expenditures.

The Treasury Department shall accurately keep an account showing all receipts and disbursements relative to the revenues and expenditures of the District of Columbia, and shall also show the sources of the revenue, the purpose of expenditure, and the appropriation under which the expenditure is made; and any and all revenue derived from property not owned wholly or in part by the District of Columbia, as between the United States and the District of Columbia, shall be the property of the United States. (June 29, 1922, 42 Stat. 669, ch. 249; Aug. 17, 1937, 50 Stat. 693, ch. 690, title X, § 1; May 16, 1938, 52 Stat. 375, ch. 223, § 8; 1973 Ed., § 47-502; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-503.

§ 47-503. Disposition of excess money; collection of federal revenue; submission of budget estimates.

If, for any fiscal year, the District of Columbia should raise and deposit in the Treasury to its credit, more money derived from taxation, privileges, and other sources authorized in this chapter than may be necessary for the purposes therein, such excess shall be available the succeeding year, in the discretion of the Council of the District of Columbia, either for the purpose of meeting the expense chargeable to the District of Columbia and/or for the further purpose of enabling the Council to fix a lower rate of taxation for the year following the one in which said excess accrued than it might otherwise be able to do; and the agencies through which the District of Columbia collects its revenue derived from taxation shall also collect for the United States any revenues which by § 47-502 become the sole property of the United States, and said revenues shall be deposited in the Treasury of the United States as "miscellaneous receipts"; and the Mayor of the District of Columbia shall not be restricted in submitting to the Office of Management and Budget his estimates of the needs of the District, but he shall, as near as may be, bring them within the probable aggregate of the fixed proportionate appropriations to be paid by the United States and the District of Columbia. (June 29, 1922, 42 Stat. 669, ch. 249; 1973 Ed., § 47-503; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Change in government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(364) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the Dis-

tract of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

§ 47-504. Authority of Council to change certain tax rates.

In order to provide for additional revenue to meet additional expenditures resulting from a compensation increase adopted for persons paid under the District of Columbia Teachers' Salary Act of 1955 (Chapter 11 of Title 31), policemen, and firemen, the Council, in accordance with § 406 of Reorganization Plan No. 3 of 1967, is authorized to change the rate of the taxes imposed under:

- (1) The District of Columbia Income and Franchise Tax Act of 1947 (Chapter 18 of this title);
- (2) The District of Columbia Sales Tax Act (Chapter 20 of this title);
- (3) The District of Columbia Use Tax Act (Chapter 22 of this title);
- (4) The District of Columbia Cigarette Tax Act (Chapter 24 of this title);
- (5) The District of Columbia Alcoholic Beverage Control Act (Chapter 1 of Title 25);
- (6) The Act of April 23, 1924 (relating to motor vehicle fuel tax) (Chapter 23 of this title);
- (7) Title V of the District of Columbia Revenue Act of 1937 (Chapter 19 of this title); and
- (8) Any other act of Congress imposing a tax solely in the District of Columbia. (1973 Ed., § 47-504; Sept. 3, 1974, 88 Stat. 1064, Pub. L. 93-407, title IV, § 471; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to establishment of real property tax rates, see § 47-812.

References in text. — Chapter 11 of Title 31, referred to in the introductory language, was repealed by § 11 of D.C. Law 4-78, effective March 16, 1982.

Chapter 19 of this title, referred to in (7), was repealed by § 24 of D.C. Law 6-168, effective February 24, 1987.

CHAPTER 6. TAX ASSESSOR.

Sec.

47-601. Preparation of annual tax ledgers and statement of assessment and taxes.

Sec.

47-602. Power to administer oaths or affirmations and summon witnesses; examination of witnesses.

§ 47-601. Preparation of annual tax ledgers and statement of assessment and taxes.

The Assessor of the District of Columbia shall be charged with the duty of preparing the annual tax ledgers on a numerical system, which shall be finished or completed at such time as will allow preparation by him of tax bills for collection purposes. Upon the completion of the tax ledgers, said Assessor shall prepare a statement showing the total amount of the assessment of both real and personal property, and the total amount of taxes to be collected under said assessment; which statement shall be receipted by the Collector of Taxes in triplicate, and said Collector shall be held responsible under his bond for all such taxes, except such as he may not be able to collect after fully complying with the requirements of law. The original receipt of said assessment and taxes shall be forwarded by the Assessor to the General Accounting Office, the duplicate to the Auditor of the District of Columbia, and the triplicate shall be retained by the Collector. (Mar. 31, 1892, 27 Stat. 13, ch. 30; June 10, 1921, 42 Stat. 24, ch. 18, § 304; July 3, 1926, 44 Stat. 834, ch. 759, § 8; 1973 Ed., § 47-601; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessment official being competent witness in condemnation proceedings, see § 14-308.

As to Assessor's duty to make list of those eligible for military service, see § 39-103.

Office of Assessor abolished. — See note to § 47-413.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-602. Power to administer oaths or affirmations and summon witnesses; examination of witnesses.

The Assessor of the District of Columbia and each member of said Board of Assistant Assessors in the discharge of any of the duties devolved upon him or them, or the Board of Real Property Assessments and Appeals, may administer all necessary oaths or affirmations. The Assessor of the District of Columbia, or in his absence the temporary chairman of said Board, shall have power to summon the attendance of any person before said Board to be examined under oath touching such matters and things as the Board of Assistant Assessors or the said Board of Real Property Assessments and Appeals may deem advisable in the discharge of their duties; and any member of the Metropolitan Police force of the District of Columbia may serve subpoenas in his behalf. Such fees shall be allowed witnesses so examined, to be paid out of the contingent fund of the Mayor of the District of Columbia, as are allowed in civil actions before the Superior Court of the District of Columbia. Any person summoned and examined as aforesaid who shall knowingly make false oath or affirmation shall be guilty of perjury, and upon conviction thereof be punished according to

the laws in force for the punishment of perjury. (Aug. 14, 1894, 28 Stat. 285, ch. 287, § 13; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(45); 1973 Ed., § 47-606; Mar. 17, 1993, D.C. Law 9-241, § 4, 40 DCR 629; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to composition and functions of Board of Real Property Assessments and Appeals, see § 47-825.1.

As to provision similar to this section, see § 47-826.

As to violations of assessment provisions, see § 47-828.

Section references. — This section is referred to in § 47-828.

Legislative history of Law 9-241. — Law 9-241, the "Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-199, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 5, 1993, it was assigned Act No. 9-375 and transmitted to both Houses of Congress for its review. D.C. Law 9-241 became effective on March 17, 1993.

Office of Assessor abolished. — See note to § 47-413.

Board of Assistant Assessors abolished. — The Board of Assistant Assessors was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. All functions of the Office of the Assessor and of the Board of Assistant Assessors, including the functions of all officers, employees and subordinate agencies were transferred to the Department of General Administration by Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952. Reorganization Order No. 20 dated November 10, 1952, abolished the Office of Assessor and the Board of Assistant Assessors and transferred their functions to the Finance Office in the Department of General Administration. The same Order established in the Finance Office

an Office of the Assessor headed by an Assessor, and established under the Assessor a Board of Assistant Assessors (Real Estate), a Board of Personal Tax Appraisers, and a Board of Equalization and Review. Reorganization Order No. 20 was superseded and replaced, and the Offices and Boards established thereby were abolished, by Organization Order No. 121, dated December 12, 1957. This Order continued the Finance Office, under the Department of General Administration, composed of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division, and also established a Board of Equalization and Review. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within the newly established Department of General Administration and also established a Board of Equalization and Review in the Finance Office, composed of the Finance Officer as Chairman, and 2 or more qualified persons who are conversant with real estate values in the District of Columbia, to be designated by the Finance Officer with the approval of the Director of General Administration. Under the provisions of the Order, the Board of Equalization and Review was empowered to review and equalize real estate assessments, hear complaints against real estate assessments and take appropriate action, and to transmit equalized assessments to the Commissioner for approval. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The latter Order also provided that the Director of the Department of Finance and Revenue serve on the Board of Equalization and Review (now the Board of Real Property Assessments and Appeals).

CHAPTER 7. DESIGNATION OF REAL PROPERTY FOR ASSESSMENT AND TAXATION.

Sec.	Sec.
47-701. General system to be used — Numbering of squares, lots, blocks, or parcels; record.	47-705. Same — Numbering of blocks, squares, lots, or parcels.
47-702. Same — Designation to be official for collection purposes.	47-706. Same — Plat books.
47-703. Same — Daily transcript.	47-707. Same — Daily transcripts.
47-704. System to be used outside City — In general.	47-708. Same — Consideration of designation for collection purposes.
	47-709. Sale of federal property.

§ 47-701. General system to be used — Numbering of squares, lots, blocks, or parcels; record.

(a) For the purposes of facilitating assessment and taxation of real estate in the District of Columbia, the following system of designating the several parcels of land therein is hereby prescribed, and every designation given in conformity with said system shall be a sufficient description of the parcel of land to which it relates, for all purposes of assessment and collection of taxes and assessments of every kind:

(1) Each square in the City of Washington shall bear a number or other designation that will distinguish it from every other square in said City;

(2) Each lot or parcel of ground in each such square shall bear a number or other designation that will distinguish it from every other lot or parcel of ground in such square;

(3) Each block in each subdivision in said District outside of the limits of the City of Washington shall bear a number that will distinguish it from every other such block;

(4) Each lot or parcel of land in each such block shall bear a number that will distinguish it from every other lot therein; and

(5) Each piece or parcel of unsubdivided land and each parcel of land deeded by metes and bounds in said District shall have a distinctive designation.

(b) As nearly as practicable, in the judgment of the Mayor of the District of Columbia, the numbers in each of the aforesaid squares, blocks, or parcels of land required to be numbered shall be in a regularly increasing numerical sequence and order, beginning with the lowest number practicable; and, in case of the lots, shall commence at the same relative location in each of the squares, blocks, or parcels of land, and be continued in the same relative order.

(c) It shall be the duty of the Mayor to cause a record of the designations of the several aforesaid parcels of land to be made in accordance with the foregoing system, in the Office of the Surveyor of said District; and hereafter it shall be the duty of the Surveyor, in giving numbers to blocks or lots of future subdivisions, to be governed by said system. (Mar. 3, 1899, 30 Stat. 1376, ch. 457, § 1; 1973 Ed., § 47-401; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to system to be used outside the City of Washington, see §§ 47-704 to 47-708. **Section references.** — This section is referred to in § 47-702.

§ 47-702. Same — Designation to be official for collection purposes.

The designation as prescribed in § 47-701 to each of said lots or parcels of land, which they shall respectively bear on the records of the Assessor of said District at the time said lots or parcels become subject to sale for arrears of any tax or assessment, shall be the official designation of said lots or parcels of land for the enforcement of the collection of all such arrears of general taxes and assessments for the tax year in which the said designation shall be given, and until such designation be changed pursuant to law. (Mar. 3, 1899, 30 Stat. 1377, ch. 457, § 2; 1973 Ed., § 47-402; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Assessor abolished. — See note to § 47-413.

§ 47-703. Same — Daily transcript.

The Mayor of the District of Columbia shall cause to be made a daily transcript, and entry on the records of said Assessor, of the designations of lots or parcels of land in said District appearing in instruments of conveyance received for record in the Office of the Recorder of Deeds, and the designations of lots or parcels of land in said District transferred by probated wills; and the person or persons whom the Mayor of said District may designate for the purpose of making such transcript shall for this purpose at all times during office hours have full access to the records of the Recorder of Deeds and the Register of Wills of said District; and the Assessor shall daily furnish the Surveyor with a copy of such transcript. (Mar. 3, 1899, 30 Stat. 1377, ch. 457, § 3; 1973 Ed., § 47-403; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to transcript from Surveyor's office, see § 47-707.

Office of Assessor abolished. — See note to § 47-413.

Intent of section. — This section is intended to require the District merely to improve its method of lot description, not to create rights in those to whom property is transferred by will. *Watson v. Scheve*, App. D.C., 424 A.2d 1089 (1980).

No obligation to assess transfers by will in name of new owner. — This section does not obligate the District of Columbia Department of Finance and Revenue to record transfers of title made by will and process all subsequent assessments in the name of the new owner, nor mail its tax assessments to him. *Watson v. Scheve*, App. D.C., 424 A.2d 1089 (1980).

§ 47-704. System to be used outside City — In general.

For the purpose of facilitating the assessment and taxation of real property in the territory within the limits of the District of Columbia lying outside of the City of Washington the following system of designating the several subdivisions, blocks, lots, and parcels of land is hereby prescribed, and each and every

designation made or given in conformity with said system shall be deemed a sufficient description of the property to which it relates for all purposes of assessment and the collection of taxes and assessments of every kind. (Feb. 23, 1905, 33 Stat. 737, ch. 735, § 1; 1973 Ed., § 47-404; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-708.

§ 47-705. Same — Numbering of blocks, squares, lots, or parcels.

The Mayor of the District of Columbia is hereby authorized and directed to cause to be given numbers to all of said blocks or squares, lots or parcels of land as said blocks, squares, lots, or parcels of land have been formed by the highway extension plan, of record on February 23, 1905, in the Office of Surveyor of the District of Columbia, and subdivisions existing on February 23, 1905, and to place the numbers so given upon the said highway extension plan; provided, that in all cases where 2 or more blocks or parts of contiguous existing subdivisions are surrounded as a group by existing streets or roads, or by proposed streets of the highway extension plan, such group shall be numbered as a block or square upon the recorded plats of the highway extension plan; provided further, that where lots are numbered in duplicate in any block or square which includes parts of 2 or more existing subdivisions, new lot numbers shall be given said lots numbered in duplicate, and new lot numbers shall also be given to all parts of lots remaining after the extension of streets or alleys by dedication, condemnation, or purchase, whereby parts of lots have become public property; provided further, that new lot numbers shall also be given to all parts of original and subdivided lots existing on February 23, 1905, on the records of the Assessor and the Surveyor of the District of Columbia. (Feb. 23, 1905, 33 Stat. 737, ch. 735, § 2; 1973 Ed., § 47-405; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Authority of District government. — The District government is authorized and directed to number all the blocks or squares, lots or parcels of land which have been formed by the highway extension plan as shown by the records of the Surveyor of the District of Columbia. *Hazard v. Blessing*, 2 F.2d 916 (D.C. Cir. 1924).

The District government cannot open a street

in such a way as to interfere with the numbering under this section. *Rudolph v. Warwick*, 10 F.2d 993 (D.C. Cir. 1926).

Street projections designated “square boundaries.” — Streets projected by the National Capital Planning Commission are designated as “square boundaries.” *Hazard v. Blessing*, 2 F.2d 916 (D.C. Cir. 1924).

§ 47-706. Same — Plat books.

The Mayor of the District of Columbia shall cause to be prepared a series of volumes of plats, on a scale of 100 feet to the inch, embracing all the land in said District outside the City of Washington, these plats to show at all times the separate parcels of land created by subdivisions, sales, wills, condemnations, dedications, decrees of court, or otherwise, each with its distinctive number. Said books shall be kept in the Office of the Surveyor of said District,

and shall be numbered according to the first and last page numbers of each volume, the pages being numbered continuously, and indefinitely rising in numbers as new books are opened to record changes in the outlines of parcels from any cause. (Feb. 23, 1905, 33 Stat. 738, ch. 735, § 3; 1973 Ed., § 47-406; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Delegation of functions. — Reorganization Order No. 27, dated April 3, 1953, as amended April 10, 1953, provided that the functions of the Surveyor described in this section and § 47-707 would continue to be delegated to the Office of the Assessor, Finance Office, Department of General Administration. The Finance Office was reconstituted by Organization Order No. 121, dated December 12, 1957, and the function of preparing and maintaining tax maps and other necessary records was dele-

gated to the Property Tax Division. Organization Order No. 121 was repealed and replaced by Organization Order No. 3, dated December 13, 1967, Part IVC of which established a new Finance Office and delegated the aforesaid function to the Property Tax Division thereof. Functions of the Finance Office as set forth in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969.

§ 47-707. Same — Daily transcripts.

For the purpose of keeping said books constantly current and up to date, the Mayor shall cause an employee of the Surveyor's office to make daily transcripts of all deeds of conveyance, wills, condemnations, decrees, and other instruments or proceedings by which boundaries are changed; for which purpose, such employee of the Surveyor's office shall at all times during business hours have full and free access to all records of the Recorder of Deeds, Register of Wills, Clerk of the United States District Court for the District of Columbia, Clerk of the Superior Court of the District of Columbia, Marshal, and other officials; and the Surveyor shall furnish to the Assessor a copy of such transcript, from which a duplicate set of taxation and assessment plat books shall be maintained by the said assessor; provided, that the current series of taxation and assessment plat books in the Surveyor's office shall be the standard book of reference for all purposes of assessment and taxation by all departments of the government of the District of Columbia. (Feb. 23, 1905, 33 Stat. 738, ch. 735, § 4; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, § 161(f); 1973 Ed., § 47-407; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Delegation of functions. — See note to § 47-706.

§ 47-708. Same — Consideration of designation for collection purposes.

The designation given as hereinbefore prescribed in § 47-704 to each block or square, lot or parcel of land, respectively appearing on the records of the Assessor of the District of Columbia at the time any assessment or tax is levied for which such property may become subject to sale, shall be a complete and official designation of said block or square, lot or parcel of land, for the purpose of the collection of taxes or assessments of any kind, and the designations so

given shall be considered good and sufficient descriptions in any advertisements of such property for sale for delinquent taxes or assessments. (Feb. 23, 1905, 33 Stat. 738, ch. 735, § 5; 1973 Ed., § 47-408; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-709. Sale of federal property.

It shall be the duty of the Administrator of General Services, within 90 days after the sale of any lots or squares belonging to the United States in the City of Washington, to report the fact to the proper officers of the District, giving the date of sale, the number of the lot and square, and the name of the purchaser; and such lots or squares shall be liable to taxation by the District from the day of sale. (R.S., D.C., § 143; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3; Mar. 2, 1934, 48 Stat. 389, ch. 38, § 1; 1973 Ed., § 47-409; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Transfer of functions. — The Office of Public Buildings and Grounds under the direction of the Chief of Engineers of the Army was abolished and the functions thereof transferred to the Director of Public Buildings and Public Grounds of the National Capital by the Act of February 26, 1925, 43 Stat. 983, ch. 339, § 3. The latter agency was abolished and its functions transferred to the Office of National Parks, Buildings, and Reservations by Executive Order 6166, June 10, 1933. Act of March 2, 1934, 48 Stat. 389, ch. 38, § 1, provided that

the Office of National Parks, Buildings, and Reservations would be known as the National Park Service. The functions of the National Park Service in the District of Columbia regarding public buildings were transferred to the Public Buildings Administration by Reorganization Plan No. 1 of 1939. The Public Buildings Administration was abolished and its functions subsequently transferred to the Administrator of General Services by §§ 1 and 2 of Reorganization Plan No. 18 of 1950.

CHAPTER 8. REAL PROPERTY ASSESSMENT AND TAX.

Subchapter I. General Provisions.

- Sec.
47-801. Declaration of purpose.
47-802. Definitions.
47-803. Additional definitions.

Subchapter II. Authority and Procedure to Establish Real Property Tax Rates.

- 47-811. Levy and disposition of tax; payment; penalty for nonpayment.
47-811.1. Real property tax amnesty.
47-812. Establishment of rates.
47-813. Classes of property.
47-814. Rules and regulations.
47-815. Submission and publication of proposed rates and certain assessed values.
47-816. Submission on exempt property.
47-817. Comparison of rates and burdens.
47-818. [Repealed].
47-818.1. Adoption of enumerated reports as comparison.
47-819. Compilation and publication of comparisons.
47-820. Assessments — Assessment roll; frequency of assessments; regulations and orders.
47-820.1. Same — Improved residential real property owned by cooperative housing association; reports by association; Mayor to issue rules.
47-821. Same — General duties of Mayor; appointment of assessors; submission of information by property owners.
47-822. Same — Person in whose name assessment made; address and number to be used.
47-823. Same — Preliminary roll; public inspections and copying of material; sales ratio studies; listing of assessed values.
47-824. Same — Notice to taxpayer; contents.
47-825. [Repealed].
47-825.1. Board of Real Property Assessments and Appeals.
47-825.2. Public Advocate for Assessments and Taxation.
47-826. Same — Power to administer oaths or affirmations and summon witnesses; witness fees; examination of witnesses.
47-827. Class actions.
47-828. Violations of assessment provisions.
47-829. Taxable real estate; new structures and additions or improvements of old structures; complaints and appeals.
- Sec.
47-830. New buildings; complaints and appeals.
47-831. Omitted properties; void assessments; notice and appeal.
47-832. Subdivisions made during January, February, March, April, May, or June.
47-833. Unsubdivided tracts.
47-834. Reassessment or redistribution — Subdivisions; notice and appeal; validity.
47-835. Same — Powers and duties of Department of Finance and Revenue and Assessor.
47-836. Railroad companies — Washington Terminal, Philadelphia, Baltimore and Washington or Baltimore and Ohio.
47-837. Same — Baltimore and Ohio or Washington Terminal.
47-838. Same — Baltimore and Potomac.
47-839. Reassessment powers and duties of Mayor.
47-840. Valuation of federal property — Real estate included; return to Congress.
47-841. Same — Secretary of Interior to designate persons and regulations.
47-842. Historic property tax relief — Assessment of officially designated buildings.
47-843. Same — Eligibility.
47-844. Same — Agreements for maintenance and use of buildings.
47-845. Tax deferral — Amount.
47-845.1. Tax deferral — Bureau of National Affairs.
47-846. [Repealed].
47-846.1. Deferral or forgiveness of property tax.
47-847. Sale of tax delinquent property — Issuance of deed to District; redemption.
47-848. Same — Transference to homeowners.
47-849. Residential property tax relief — Definitions.
47-850. Same — Deductions from estimated market values of properties owned by single families or cooperative housing associations.
47-851. Same — Report on assessment changes for highest assessed properties.
47-852. Same — Report on exemptions and deductions.
47-853. Same — Authorized annual adjustments.
47-854. Same — Forms, procedures and regulations.

Sec.

47-855. Same — Applicability of provisions.

47-856. Same — Severability of provisions.

Subchapter III. Miscellaneous.

47-861. Violations.

47-862. Rules and regulations for tax deferral provisions.

47-863. Reduced tax liability for property owners over age 65; rules.

Subchapter IV. Condominium and Cooperative Trash Collection Tax Credit.

Sec.

47-871. Definitions.

47-872. Computation of tax; annual adjustment; limitations.

47-873. Same — Cooperative housing associations.

47-874. Mayor to issue rules; review.

Subchapter I. General Provisions.

§ 47-801. Declaration of purpose.

It is the intent of Congress to revise the real property tax in the District of Columbia to achieve the following objectives:

(1) Equitable sharing of the financial burden of the government of the District of Columbia;

(2) Full public information regarding assessments and appeal procedures;

(3) Promotion of economic activity, diversity of land use, and preservation of the character of the District of Columbia;

(4) Assurance that shifts in the tax burden on individual taxpayers will not be excessive; and

(5) Comparability of tax effort between the District of Columbia and surrounding jurisdictions in the metropolitan area and cities of comparable size. (1973 Ed., § 47-621; Sept. 3, 1974, 88 Stat. 1051, Pub. L. 93-407, title IV, § 402; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

Legislative history of Law 11-216. — Law 11-216, the "Economic Recovery Conformity Temporary Act of 1996," was introduced in Council and assigned Bill No. 11-829. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-414 and transmitted to both Houses of Congress for its review. D.C. Law 11-216 became effective on April 9, 1997.

Temporary prohibition on the increase in certain taxes. — Section 2 of D.C. Law 11-216 provided:

"Notwithstanding any other provision of law, if the Congress of the United States enacts legislation to amend the Internal Revenue

Code of 1986, to provide solely for residents of the District of Columbia a maximum individual federal income tax rate less than the maximum individual federal income tax rate assessed against other citizens of the United States of America, the Council shall not increase the tax rates of the following taxes:

(1) The individual income tax established pursuant to the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 331; D.C. Code § 47-1801.1 *et seq.*);

(2) The District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 112; D.C. Code § 47-2001 *et seq.*);

(3) The District of Columbia Use Tax Act, approved May 27, 1949 (63 Stat. 124; D.C. Code § 47-2201 *et seq.*); and

(4) The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1501; D.C. Code § 47-801 *et seq.*), except as provided in section 412(a) of the District of Columbia Real Property Tax Revision Act of 1974."

Section 5(b) of D.C. Law 11-216 provided that the act shall expire after 225 days of its having taken effect.

Broad powers placed with Mayor and

Council. — Congress placed broad powers of assessment, notification, rate establishment and collection with the Mayor and the Council with this chapter. *District of Columbia v. Catholic Univ. of Am.*, App. D.C., 397 A.2d 915 (1979).

Cited in 1776 *K St. Assocs. v. District of Columbia*, App. D.C., 446 A.2d 1114 (1982); 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S.

927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987); *George Wash. Univ. v. District of Columbia*, App. D.C., 563 A.2d 759 (1989); *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990); *Washington Post Co. v. District of Columbia*, App. D.C., 596 A.2d 517 (1991); *District of Columbia v. Willard Assocs.*, App. D.C., 655 A.2d 1237 (1995); *District of Columbia v. Casino Assocs.*, App. D.C., 684 A.2d 322 (1996).

§ 47-802. Definitions.

For the purposes of this chapter:

(1) The term “real property” means real estate identified by plat on the records of the District of Columbia Surveyor according to lot and square together with improvements thereon.

(2) The term “Mayor” means the Mayor of the District of Columbia established under § 1-241.

(3) The term “Council” means the Council of the District of Columbia established under § 1-221.

(4) The term “estimated market value” means 100% of the most probable price at which a particular piece of real property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would be expected to transfer under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

(5) The terms “owner” and “taxpayer” shall include 1 or more persons whose leasehold interest or interests in a leasehold condominium, as that term is defined in § 45-1802(18), extend for the entire balance of the unexpired term or terms. The terms “owner” and “taxpayer” also shall include 1 or more persons who meet the requirements of § 47-3502(2)(B) in a single family residential property.

(6) The term “regulation”, unless specifically identified as a regulation of the Commissioner, means a regulation of the Council enacted under § 406 of the Reorganization Plan No. 3 of 1967, and after January 2, 1975, such term means an act of the Council of the District of Columbia enacted under § 412 (and related sections) of the District of Columbia Self-Government and Governmental Reorganization Act.

(7) The term “tax year” means the period beginning October 1st each year and ending September 30th each succeeding year. (1973 Ed., § 47-622; Sept. 3, 1974, 88 Stat. 1051, Pub. L. 93-407, title IV, § 403; Dec. 18, 1979, D.C. Law 3-40, § 4, 26 DCR 1950; Nov. 17, 1981, D.C. Law 4-51, § 4, 28 DCR 4345; Oct. 8, 1983, D.C. Law 5-31, § 10(e), 30 DCR 3879; Aug. 6, 1993, D.C. Law 10-11, § 101(a), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 101(a), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-2901 and 47-3504.

Legislative history of Law 3-40. — See note to § 47-811.

Legislative history of Law 4-51. — Law 4-51, the “Real Property Tax Rates for Tax Year 1982 Act of 1981,” was introduced in Council and assigned Bill No. 4-292, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 28, 1981 and September 15, 1981, respectively. Signed by the Mayor on September 25, 1981, it was assigned Act No. 4-88 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-31. — Law 5-31, the “Lower Income Homeownership Tax Abatement and Incentives Act of 1983,” was introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — Law 10-11, the “Omnibus Budget Support Temporary Act of 1993,” was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

References in text. — The District of Columbia Self-Government and Governmental Reorganization Act, referred to in paragraph (6) of this section, is Pub. L. 93-198 87 Stat. 774, approved December 24, 1973. Section 412 of the Act, referred to in this same paragraph, is classified to § 1-229.

Mayor authorized to issue rules. — Section 9 of D.C. Law 5-31 provided that the Mayor shall issue rules necessary to carry out the provisions of § 47-802(5), as amended by § 10(e) of the act.

Delegation of authority under Law 5-31. — See Mayor’s Order 83-270, November 16, 1983.

“Estimated market value.” — Present estimated market value includes estimate of future income potential. District of Columbia v. Washington Sheraton Corp., App. D.C., 499 A.2d 109 (1985).

Proper application of the definition of “estimated market value” found in paragraph (4) requires consideration not merely of actual earnings, but of an adjusted income figure reflecting a variety of factors (including the impact of current leases) that influence the market value of the potential income stream of the building. Wolf v. District of Columbia, App. D.C., 597 A.2d 1303 (1991).

This section does not prescribe a valuation method for land as distinct from the improvements on the land. Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

The three generally accepted approaches for determining market value are the replacement cost approach, the comparable sales approach, and the income approach. While an appraiser must consider all three of these approaches, the appraiser may, in the exercise of discretion, ultimately rely on one method in determining a property’s market value. Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

Present estimated market value includes estimate of future income potential. District of Columbia v. Washington Sheraton Corp., App. D.C., 499 A.2d 109 (1985).

A “stabilized annual net income” figure must reflect an appraiser’s estimation of a property’s yearly income earning potential because the income approach is based on the fundamental notion that the market value of income-producing property reflects the present worth of a future income stream. Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

While appraisers often calculate a property’s income earning potential by reference to the trend of actual net income figures over the past several years, this method is not the only acceptable one; this section authorizes consideration of “any factors” that may bear on value, and the regulations require an appraiser to use the most current, accurate and conclusive information in assessments. Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

A property’s “income earning potential” should not be misinterpreted as the “income available to the property as of the assessment date.” Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

The application of the shorthand method is inappropriate where actual net income was based on an atypical year in which the building’s operations were significantly reduced on account of renovations. Under such circumstances, market value would be understated. Wolf v. District of Columbia, App. D.C., 611 A.2d 44 (1992).

Cost replacement method. — Cost replacement approach to value should not be applied to the taxation of the land and improvements that constitute new office buildings. Square 345 Assoc. Partnership v. District of Columbia, 123 WLR 1697 (Super. Ct. 1995).

Cited in Washington Sheraton v. District of Columbia, 111 WLR 1053 (Super. Ct. 1983); 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987); 1827 M St., Inc. v. District of Columbia, App.

D.C., 537 A.2d 1078 (1988); George Wash. Univ. v. District of Columbia, App. D.C., 563 A.2d 759 (1989); Washington Post Co. v. District of Columbia, App. D.C., 596 A.2d 517 (1991); National Press Bldg. Corp. v. District of Columbia, 123 WLR 2089 (Super. Ct. 1995).

§ 47-803. Additional definitions.

For the purposes of this chapter:

(1) The term “condominium” means the ownership of a single dwelling unit in a horizontal property regime.

(2) The term “cooperative housing association” means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in the District of Columbia, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement.

(3) The term “dwelling unit” means any room or group of rooms forming a single unit which is used or intended to be used for living, sleeping and the preparation and eating of meals, and which is located within a building which is wholly or partially used or intended to be used for living and sleeping by human occupants.

(4) The term “horizontal property regime” shall have the meaning given that term by § 45-1703.

(5) The term “nontransient” means occupancy of a dwelling unit or units by any person(s) for a period of more than 5 consecutive days during any 1 stay in such unit(s).

(6) The term “single family residential property” means real property improved by a dwelling unit which is used exclusively for nontransient residential purposes and which contains not more than 1 dwelling unit whether as a row, detached or semidetached structure, or as a single condominium unit within a horizontal property regime. (1973 Ed., § 47-622.1; Mar. 3, 1979, D.C. Law 2-130, § 2, 25 DCR 2517; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to exemptions for qualifying lower income homeownership households, see § 47-3503.

Section references. — This section is referred to in §§ 45-2901 and 47-3503.

Legislative history of Law 2-130. — Law 2-130, the “District of Columbia Renters and Homeowners Tax Reduction Act of 1978,” was introduced in Council and assigned Bill No. 2-318, which was referred to the Committee on

Finance and Revenue. The Bill was adopted on first and second readings on June 27, 1978 and July 25, 1978, respectively. Signed by the Mayor on August 30, 1978, it was assigned Act No. 2-268 and transmitted to both Houses of Congress for its review.

Definitions applicable. — The definitions in this section apply to §§ 47-812, 47-815, 47-825, 47-849, 47-850, 47-851, and 47-1806.6.

Subchapter II. Authority and Procedure to Establish Real Property Tax Rates.

§ 47-811. Levy and disposition of tax; payment; penalty for nonpayment.

(a) Notwithstanding the provisions of § 47-501, there is hereby levied for each fiscal year a tax on the real property in the District of Columbia at a rate or rates determined according to the provisions of this chapter. Unless otherwise provided by law, all revenues received from such tax shall be deposited, from time to time, in the Treasury of the United States, to the credit of the District of Columbia.

(b) Real property taxes shall be due and payable semiannually in 2 equal installments, the first installment to be paid on or before March 31st, and the second installment to be paid on or before September 15th, except that for the tax year beginning July 1, 1989, and ending June 30, 1990, the amount of the first and second installments shall reflect and be consistent with the tax rates applicable to that tax year, as provided in § 47-812(b) and (c).

(c) If at any time after the date provided by § 26(a) of this act any real property tax, or any installment of real property tax, is not paid within the time prescribed, there shall be added to the real property tax or installment a penalty of 10% of the unpaid amount plus interest on the unpaid amount at the rate of 1-½% per month or portion of a month until the real property tax or installment is paid. The amount of the unpaid real property tax, or installment of the real property tax, plus the penalty or interest due, shall constitute a delinquent tax to be collected in the manner prescribed by law.

(d) Notwithstanding subsection (b) of this section, a payment shall be due on or before September 15, 1993, equal to one-half of the tax year 1993 tax rate for the real property upon which real property tax is levied multiplied by the assessed value for tax year 1994 of the real property upon which real property tax is levied. (1973 Ed., § 47-631; Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 411; June 15, 1976, D.C. Law 1-70, title III, § 305, 23 DCR 540; Mar. 3, 1979, D.C. Law 2-138, § 5, 25 DCR 5147; Dec. 18, 1979, D.C. Law 3-40, § 3, 26 DCR 1950; Feb. 28, 1987, D.C. Law 6-212, § 20, 34 DCR 850; June 24, 1988, D.C. Law 7-129, § 3, 35 DCR 4102; Sept. 21, 1988, D.C. Law 7-143, § 3, 35 DCR 5403; Oct. 19, 1989, D.C. Law 8-46, § 2(a), 36 DCR 5783; Aug. 6, 1993, D.C. Law 10-11, § 101(b), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 101(b), 40 DCR 5489; Sept. 9, 1996, D.C. Law 11-153, § 2, 43 DCR 4380; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-811.1, 47-872, and 47-873.

Effect of amendments. — D.C. Law 11-153 substituted "1 ½%" for "1%" in (c).

Legislative history of Law 1-70. — Law 1-70, the "Revenue Act of 1976," was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and

second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-138. — Law 2-138, the "Real Property Tax Rate Act for Tax Year 1979," was introduced in Council and

assigned Bill No. 2-369, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 3, 1978 and October 17, 1978, respectively. Signed by the Mayor on November 9, 1978, it was assigned Act No. 2-299 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-40. — Law 3-40, the "Real Property Tax Rates for Tax Year 1980 Act," was introduced in Council and assigned Bill No. 3-176, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 25, 1979 and October 9, 1979, respectively. Signed by the Mayor on October 26, 1979, it was assigned Act No. 3-112 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-212. — See note to § 47-1521.

Legislative history of Law 7-129. — Law 7-129, the "Personal Property Tax Amendment Act of 1986 Clarification Amendment Temporary Act of 1988," was introduced in Council and assigned Bill No. 7-457. The Bill was adopted on first and second readings on March 29, 1988 and April 19, 1988, respectively. Signed by the Mayor on May 6, 1988, it was assigned Act No. 7-178 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-143. — Law 7-143, the "Personal Property Tax Amendment Act of 1986 Clarification Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-452, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on June 30, 1988, it was assigned Act No. 7-195 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-46. — Law 8-46, the "Real Property Tax Rates for Tax Year

1990 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-319, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on August 1, 1989, it was assigned Act No. 8-79 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — See note to § 47-802.

Legislative history of Law 10-25. — See note to § 47-802.

Legislative history of Law 11-153. — Law 11-153, the "Tax Lien Assignment and Sale Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-704, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-353 and transmitted to both Houses of Congress for its review. D.C. Law 11-153 became effective on September 9, 1996.

References in text. — "Section 26(a) of this act", referred to in subsection (c), is § 26(a) of D.C. Law 6-212, which provides that the act shall operate in the District for tax years beginning on or after July 1, 1987.

Notation of debt service requirement on real property tax bills. — Section 6 of D.C. Law 10-126 provided that commencing with the tax year beginning October 1, 1994, and ending September 20, 1995, and for each tax year thereafter, the Mayor shall note on the 1st half tax bill which is due and payable by March 31, 1995, and on the 2nd half tax bill which is due and payable by September 15, 1995, the percent of the total real property tax levy that constitutes the special real property tax levy.

Cited in Washington Post Co. v. District of Columbia, App. D.C., 596 A.2d 517 (1991).

§ 47-811.1. Real property tax amnesty.

(a) Notwithstanding the provisions of § 47-811, for the fiscal year beginning October 1, 1994, and ending September 30, 1995, the Mayor may provide amnesty to owners of real property from penalty, if any, imposed and 50% of the interest accrued as of the first day of the amnesty period on the base tax amount due for real property tax years 1989 to 1994, on real property with delinquent taxes for the 1989 to 1994 tax years.

(b) The amnesty period shall be set by the Mayor.

(c) To receive amnesty to be applied to a property, the real property owner shall, by the last day of the amnesty period:

(1)(A) Pay or have paid all of the real property taxes due as of the last day of the amnesty period, plus penalty and interest if the tax payment or payments was made late, for the current real property tax year; and

(B) The Mayor may require a real property owner who seeks amnesty to make any real property tax payment due for the current real property tax year as of the last day of the amnesty period, plus penalty and interest, if applicable, by cashier's check, certified check, money order, or cash; and

(2)(A) Pay the full amount of the base tax amount due on the property for real property tax years 1989 to 1994 and 50% of the interest accrued as of the first day of the amnesty period on the base tax amount due; and

(B) The amnesty payment shall be made by cashier's check, certified check, money order, or cash and shall be accompanied by a form prescribed by the Mayor.

(d) If a real property owner receives amnesty under this section, all real property taxes due, penalties imposed, or interest accrued for any period up to and including real property tax year 1994, on the property that is the subject of the amnesty, shall, notwithstanding any other provision of law, be deemed fully paid and satisfied.

(e) Real property owners shall not be entitled to amnesty under this section for real property that:

(1) Has been sold at tax sale and has an expired redemption period for which a tax sale certificate may be surrendered for a tax deed;

(2) Is the subject of a pending bankruptcy proceeding;

(3) Belongs to the United States government, including the United States Marshal;

(4) Is in the Distressed Properties Improvement Program under subchapter VIII of Chapter 25 of Title 45;

(5) Is in the Homestead Housing Preservation Program under Chapter 27 of Title 45;

(6) As of the first day of the amnesty period, is or was the subject of:

(A) Civil or criminal litigation commenced before the first day of the amnesty period;

(B) A waiver or other agreement made with the Department of Finance and Revenue; or

(C) An audit of the property's entitlement to real property tax relief, including, but not limited to, a homestead deduction, senior citizen property tax relief, lower income homeownership abatement, or tax incentives for development; or

(7)(A) After the first day of the amnesty period is determined to have received real property tax relief, including, but not limited to, a homestead deduction, senior citizen property tax relief, lower income homeownership abatement, or tax incentives for development to which the property was not entitled; or

(B) Notwithstanding subparagraph (A) of this paragraph, if it is determined by the Mayor that the real property owner was not in any way at fault in the real property receiving the tax relief to which it was not entitled, the owner may receive amnesty; provided, that the owner pays any additional taxes due as prescribed by the Mayor.

(f) For the purposes of this section, the term "base tax amount due" means:

(1) For real property that has been sold at tax sale, the amount that the Department of Finance and Revenue's computerized real property tax billing

records show as due, into which has been incorporated penalties and interest for delinquent real property taxes due before the tax sale; or

(2) For a property that has not been sold at tax sale, the amount that the Department of Finance and Revenue's computerized real property tax billing records show as due.

(g) The Mayor may, pursuant to Title 1 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 et seq.), issue rules and regulations necessary to interpret, administer, and enforce the provisions of this section. (Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 412a, as added Sept. 26, 1996, D.C. Law 11-52, § 104(b), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-52 added this section.

Emergency act amendments. — For temporary addition of section, see § 104(b) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160) provides for the application of the provisions of §§ 104(c), 109(b), (c) and (d), 110, and 111 of that act.

Legislative history of Law 10-253. — Law 10-253, the "Multiyear Budget Spending Reduction and Support Temporary Act of 1994," was introduced in Council and assigned Bill No. 10-857. The Bill was adopted on first and second readings on December 21, 1994, and January 3, 1995, respectively. Deemed approved without the signature of the Mayor on January 27, 1995, it was assigned Act No.

10-401 and transmitted to both Houses of Congress for its review. D.C. Law 10-253 became effective on March 23, 1995.

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Application of §§ 104(c), 109(b), (c), and (d), 110 and 111 of Law 11-52. — Section 1602 of D.C. Law 11-52 provided that the provisions of §§ 104(c), 109(b), (c) and (d), and 110, and 111 shall apply to the real property tax sale conducted July 1995 and for each sale conducted thereafter.

§ 47-812. Establishment of rates.

(a) The Council, after public hearing, shall by October 15 of each year establish, by act, rates of taxation, by class, as provided in § 47-813, and the rates shall be applied, during the tax year, to the assessed value of all real property subject to taxation. The Council, acting by resolution, may extend the time for establishing the rates of taxation. If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.

(a-1) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable property in the District of Columbia for the tax year beginning October 1, 1994, and ending September 30, 1995, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.

(a-2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.

(b) Notwithstanding the provisions of subsection (a) of this section, the following real property tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1995, and ending September 30, 1996:

- (1) \$0.3659 for each \$100 of assessed value for Class 1 Property;
- (2) \$0.5869 for each \$100 of assessed value for Class 2 Property;
- (3) \$0.7050 for each \$100 of assessed value for Class 3 Property;
- (4) \$0.8194 for each \$100 of assessed value for Class 4 Property; and
- (5) \$1.9055 for each \$100 of assessed value for Class 5 Property.

(b-1) Notwithstanding the provisions of section 413, subsection (a) of this section, or any other law imposing requirements on the enactment of these tax rates, the following real property tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1996, and ending September 30, 1997:

- (1) \$0.3936 (for each \$100 of assessed value) for Class One Property;
- (2) \$0.6314 (for each \$100 of assessed value) for Class Two Property;
- (3) \$0.7585 (for each \$100 of assessed value) for Class Three Property;
- (4) \$0.8815 (for each \$100 of assessed value) for Class Four Property; and
- (5) \$2.0500 (for each \$100 of assessed value) for Class Five Property.

(c) Pursuant to section 9 of the General Obligation Bond Act of 1994, effective May 3, 1994 (D.C. Law 10-116; 41 DCR 1224), the following real property special tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1995, and ending September 30, 1996:

- (1) \$0.5941 for each \$100 of assessed value for Class 1 Property;
- (2) \$0.9531 for each \$100 of assessed value for Class 2 Property;
- (3) \$1.1450 for each \$100 of assessed value for Class 3 Property;
- (4) \$1.3306 for each \$100 of assessed value for Class 4 Property; and
- (5) \$3.0945 for each \$100 of assessed value for Class 5 Property.

(c-1) Notwithstanding the provisions of section 413, subsection (c) of this section, or any other law imposing requirements on the enactment of these tax rates, pursuant to section 9 of the General Obligation Bond Act of 1994, effective May 3, 1994 (D.C. Law 10-116; 41 DCR 1224), the following real property special tax rates are established for taxable real property in the District of Columbia for the real property tax year that begins October 1, 1996, and ends September 30, 1997:

- (1) \$0.5664 (for each \$100 of assessed value) for Class One Property;
- (2) \$0.9086 (for each \$100 of assessed value) for Class Two Property;
- (3) \$1.0915 (for each \$100 of assessed value) for Class Three Property;
- (4) \$1.2685 (for each \$100 of assessed value) for Class Four Property; and
- (5) \$2.9500 (for each \$100 of assessed value) for Class Five Property.

(d) For purposes of this section, the terms "Class 1 Property", "Class 2 Property", "Class 3 Property", "Class 4 Property", and "Class 5 Property" each

has the same meaning as the terms have in § 47-813(c-2)(1), (2), (3), (4), and (5).

(e) The Mayor of the District of Columbia shall issue rules necessary to implement subsections (b) through (d) of this section. (1973 Ed., § 47-632; Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 412; June 15, 1976, D.C. Law 1-70, title III, §§ 302(a), 305, 23 DCR 538, 540; Mar. 3, 1979, D.C. Law 2-130, § 3(a), 25 DCR 2517; Nov. 20, 1979, D.C. Law 3-37, § 2(a), 26 DCR 1564; Mar. 13, 1985, D.C. Law 5-125, § 2, 31 DCR 5180; Nov. 19, 1985, D.C. Law 6-51, § 3(a), 32 DCR 5681; Oct. 1, 1987, D.C. Law 7-28, § 2, 34 DCR 5094; Sept. 29, 1988, D.C. Law 7-161, § 2(a), (b), 35 DCR 5730; Mar. 16, 1989, D.C. Law 7-183, § 2(a), (b), 35 DCR 7733; Oct. 19, 1989, D.C. Law 8-46, § 2(b), (c), 36 DCR 5783; Sept. 27, 1990, D.C. Law 8-172, § 2(d), 37 DCR 4844; Mar. 7, 1992, D.C. Law 9-62, § 2(b), (c), 38 DCR 7291; Oct. 7, 1992, D.C. Law 9-177, § 2, 39 DCR 5868; Jan. 26, 1994, D.C. Law 10-66, § 2, 40 DCR 7358; June 14, 1994, D.C. Law 10-127, § 5(a), 41 DCR 2050; Sept. 26, 1995, D.C. Law 11-52, § 104(a), 42 DCR 3684; Feb. 10, 1996, D.C. Law 11-86, § 2, 42 DCR 6798. Mar. 5, 1996, D.C. Law 11-98, § 1301, 43 DCR 5; Apr. 26, 1996, 110 Stat. 1321 [211], Pub. L. 104-134, § 135(1); Apr. 9, 1997, D.C. Law 11-217, § 2, 43 DCR 6076; Apr. 9, 1997, D.C. Law 11-222, § 2, 44 DCR 108; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to tax abatement for new or rehabilitated vacant rental housing, see § 45-2582.

Section references. — This section is referred to in §§ 47-811 and 47-815.

Effect of amendments. — D.C. Law 11-52 inserted (a-1).

D.C. Law 11-98 rewrote (b) and (c).

Public Law 104-134, 110 Stat. 1321[211], rewrote (a), and added (a-2).

D.C. Law 11-222 inserted (b-1) and (c-1).

Temporary amendment of section. — D.C. Law 11-86 rewrote (b) and (c).

Section 6(b) of D.C. Law 11-86 provided that the act shall expire after 225 days of its having taken effect.

Section 3 of D.C. Law 11-216 amended subsection (a) to read as follows:

“(a) The Council, after public hearing, shall by October 15 of each year establish, by act, rates of taxation, by class, as provided in § 47-813, and the rates shall be applied, during the tax year, to the assessed value of all real property subject to taxation. If the Congress of the United States enacts legislation to amend the Internal Revenue Code of 1986, to provide solely for residents of the District of Columbia a maximum individual federal income tax rate less than the maximum individual federal income tax rate assessed against other citizens of the United States of America, the Council shall not increase the rate of taxation in a tax year in which the federal law takes effect. The Council, acting by resolution, may extend the time for establishing the rates of taxation. If the Council

does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation, consistent with the limitation established by the first sentence of this subsection. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing the rates, the rates of taxation of real property submitted by the Mayor pursuant to § 47-815(b)(3) shall be the rates of taxation to be applied during the tax year.”

Section 5(b) of D.C. Law 11-216 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 11-217 inserted (b-1) and (c-1).

Section 4(b) of D.C. Law 11-217 provided that the act shall expire after 225 days of its having taken effect or upon the effective date of the Real Property Tax Rates for Tax Year 1997 Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 101(a) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 104(a) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of section, see § 2 of the Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, October 26, 1995, 42 DCR 6054), § 2 of the Real Property Tax Rates for Tax Year

1996 Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-183, January 22, 1996, 43 DCR 376), § 1301 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777), and see § 2 of the Real Property Tax Rates for Tax Year 1997 Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-12, March 3, 1997, 44 DCR 1744).

For temporary amendment of section, see § 2 of the Real Property Tax Rates for Tax Year 1997 Emergency Amendment Act of 1996 (D.C. Act 11-403, October 24, 1996, 43 DCR 5808), and see § 3 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

Legislative history of Law 1-70. — See note to § 47-811.

Legislative history of Law 2-130. — See note to § 47-803.

Legislative history of Law 3-37. — Law 3-37, the “Real Property Tax Classifications Act for Tax Year 1980,” was introduced in Council and assigned Bill No. 3-141, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 31, 1979 and September 11, 1979, respectively. Signed by the Mayor on September 28, 1979, it was assigned Act No. 3-104 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-125. — Law 5-125, the “Real Property Tax Rates Setting Procedures Amendment Act of 1984,” was introduced in Council and assigned Bill No. 5-302, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 10, 1984 and September 12, 1984, respectively. Signed by the Mayor on October 1, 1984, it was assigned Act No. 5-178 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-51. — Law 6-51, the “Real Property Tax Rates for Tax Year 1986 and Classification Amendment Act of 1985,” was introduced in Council and assigned Bill No. 6-268, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 9, 1985 and September 10, 1985, respectively. Signed by the Mayor on September 30, 1985, it was assigned Act No. 6-74 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-28. — See note to § 47-818.1.

Legislative history of Law 7-161. — Law 7-161, the “Real Property Tax Rates for Tax Year 1989 Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-511, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the

Mayor on July 15, 1988, it was assigned Act No. 7-216 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-183. — Law 7-183, the “Real Property Tax Rates for Tax Year 1989 Amendment Temporary Act of 1988,” was introduced in Council and assigned Bill No. 7-510, and was retained by Council. The Bill was adopted on first and second readings on July 12, 1988 and September 27, 1988, respectively. Signed by the Mayor on October 13, 1988, it was assigned Act No. 7-241 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-46. — See note to § 47-811.

Legislative history of Law 8-172. — Law 8-172, the “Real Property Tax Rates for Tax Year 1991 Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-609, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1990, and July 10, 1990, respectively. Signed by the Mayor on July 16, 1990, it was assigned Act No. 8-237 and transmitted to both Houses of Congress for its review. D.C. Law 8-172 became effective on September 27, 1990.

Legislative history of Law 9-62. — Law 9-62, the “District of Columbia Real Property Tax Rates for Tax Year 1992 and Real Property Tax Reclassification Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-253, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 1, 1991, and November 5, 1991, respectively. Signed by the Mayor on November 25, 1991, it was assigned Act No. 9-105 and transmitted to both Houses of Congress for its review. D.C. Law 9-62 became effective on March 7, 1992.

Legislative history of Law 9-177. — Law 9-177, the “Real Property Tax Rates for Tax Year 1993 and Real Property Tax Revision and Reclassification Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-563, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 23, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 28, 1992, it was assigned Act No. 9-283 and transmitted to both Houses of Congress for its review. D.C. Law 9-177 became effective on October 7, 1992.

Legislative history of Law 10-66. — Law 10-66, the “Real Property Tax Rates for Tax Year 1994 and Real Property Tax Classification Amendment Act of 1993,” was introduced in Council and assigned Bill No. 10-313, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 21, 1993, and September 21, 1993, respectively. Approved without the signature of

the Mayor on October 8, 1993, it was assigned Act No. 10-121 and transmitted to both Houses of Congress for its review. D.C. Law 10-66 became effective on January 26, 1994.

Legislative history of Law 10-127. — Law 10-127, the “Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-450, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 1, 1994, and March 22, 1994, respectively. Signed by the Mayor on April 13, 1994, it was assigned Act No. 10-221 and transmitted to both Houses of Congress for its review. D.C. Law 10-127 became effective on June 14, 1994.

Legislative history of Law 11-52. — See note to § 47-811.1.

Legislative history of Law 11-86. — Law 11-86, the “Real Property Tax Rates for Tax Year 1996 Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-457. The Bill was adopted on first and second readings on October 10, 1995, and November 7, 1995, respectively. Approved without the signature of the Mayor on November 29, 1995, it was assigned Act No. 11-165 and transmitted to both Houses of Congress for its review. D.C. Law 11-86 became effective on February 10, 1996.

Legislative history of Law 11-98. — Law 11-98, the “Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-440, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 26, 1995, it was assigned Act No. 11-181 and transmitted to both Houses of Congress for its review. D.C. Law 11-98 became effective on March 5, 1996.

Legislative history of Law 11-216. — See note to § 47-801.

Legislative history of Law 11-217. — Law 11-217, the “Real Property Tax Rates for Tax Year 1997 Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-843. The Bill was adopted on first and second readings on September 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-415 and transmitted to both Houses of Congress for its review. D.C. Law 11-217 became effective on April 9, 1997.

Legislative history of Law 11-222. — Law 11-222, the “Real Property Tax Rates for Tax Year 1998 Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-844, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on November 25, 1996, it was assigned Act No.

11-441 and transmitted to both Houses of Congress for its review. D.C. Law 11-222 became effective on April 9, 1997.

Mayor authorized to issue rules. — Section 4 of D.C. Law 6-51 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.

Section 2(d) of D.C. Law 6-153 provided that the Mayor shall issue rules to implement the provisions of the section.

Application of Law 11-222. — Section 5 of D.C. Law 11-222 provided that the act shall apply on the effective date of the Real Property Tax Rates for Tax Year 1997 Emergency Amendment Act of 1996.

Calculated rates for tax year 1995. — The following calculated rates became the tax rates for tax year 1995 on December 16, 1994, pursuant to Resolution 10-443 and D.C. Code § 47-812(a) (See 41 DCR 5987):

Property Class	Calculated Indexed Rate Per \$100 of Assessed Value
Class One (owner-occupied residential)	\$0.97
Class Two (rental residential)	1.62
Class Three (hotels, motels)	1.81
Class Four (commercial)	2.31
Class Five (unimproved)	5.35

Tax Year 1995 Real Property Tax Rates Establishment Extension Emergency Resolution of 1994. — Pursuant to Resolution 10-443, effective October 4, 1994, the Council extended, on an emergency basis, the time for establishing the real property tax rates for tax year 1995 until December 5, 1994.

Definitions applicable. — The definitions in § 47-803 apply to this section.

Rates established. — Section 2 of the Act of March 5, 1981, D.C. Law 3-136, established the rates of taxation on taxable real property in the District of Columbia for the tax year beginning July 1, 1980, and ending June 30, 1981, as follows: \$1.22 for each \$100 of assessed value for Class 1 Property; \$1.54 for each \$100 of assessed value for Class 2 Property; and \$2.13 for each \$100 of assessed value for Class 3 Property.

Section 2(a) of D.C. Law 6-51 established rates of taxation on taxable real property in the District of Columbia for the tax year beginning July 1, 1985, and ending June 30, 1986, as follows: \$1.0615 for each \$100 of assessed value for Class 1 property; \$1.3402 for each \$100 of assessed value for Class 2 property; \$1.5712 for each \$100 of assessed value for Class 3 prop-

erty; and \$1.7662 for each \$100 of assessed value for Class 4 property.

Section 2(a) of D.C. Law 6-153 established rates of taxation on taxable real property in the District of Columbia for the tax year beginning July 1, 1986, and ending June 30, 1987 as follows: \$0.8686 for each \$100 of assessed value for Class 1 Property; \$1.0966 for each \$100 of assessed value for Class 2 Property; \$1.2957 for each \$100 of assessed value for Class 3 Property; and \$1.4454 for each \$100 of assessed value for Class 4 Property.

Real property special tax rates established. — Section 2(b) of D.C. Law 6-51, effective November 19, 1985, established rates for the real property special tax on taxable real property in the District of Columbia for the tax year beginning July 1, 1985, and ending June 30, 1986, as follows: \$0.1585 for each \$100 of assessed value for Class 1 property; \$0.1998 for each \$100 of assessed value for Class 2 property; \$0.2488 for each \$100 of assessed value for Class 3 property; and \$0.2638 for each \$100 of assessed value for Class 4 property.

Section 2(b) of D.C. Law 6-153 established rates for the real property special tax on taxable real property in the District of Columbia for the tax year beginning July 1, 1986, and ending June 30, 1987 as follows: \$0.3514 for each \$100 of assessed value for Class 1 Property; \$0.4434 for each \$100 of assessed value for Class 2 Property; \$0.5243 for each \$100 of assessed value for Class 3 Property; and \$0.5846 for each \$100 of assessed value for Class 4 Property.

Definitions applicable. — Section 2(c) of D.C. Law 6-51 provided that, for purposes of this section, the terms "Class 1 property", "Class 2 property", "Class 3 property", and "Class 4 property" each has the meaning given to the term in subsection (c-1)(1), (2), (3), and (4) of § 47-813, as amended by § 3(b) of the act.

Section 2(c) of D.C. Law 6-153 provided that, for purposes of this section, the terms "Class 1 Property", "Class 2 Property", "Class 3 Property", and "Class 4 Property" each has the meaning given each term in subsection (c-1)(1), (2), (3), and (4) of § 47-813, as amended by § 3b of the act.

Delegation of authority pursuant to Law 6-51. — See Mayor's Order 86-6, January 14, 1986.

Delegation of authority pursuant to Laws 6-203 and 6-195. — See Mayor's Order 86-172, September 30, 1986.

General obligation bonds authorized. — D.C. Law 5-115 authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

D.C. Law 6-60, effective November 19, 1985, authorized the issuance of general obligation bonds of the District of Columbia for the purpose of financing certain capital projects and refunding certain capital indebtedness of the District of Columbia.

§ 47-813. Classes of property.

(a) For the purpose of levying taxes on real property in the District of Columbia, the Council may establish different classes of real property.

(b) For the property tax year beginning July 1, 1979, and ending June 30, 1980, the following classes of real property are established:

(1) *Class 1 Property.* — (A) Class 1 Property shall be comprised of improved residential real property which:

(i) Is occupied by the owner thereof;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 1 Property; provided, that at least 50% of the dwelling units contained therein are occupied by the shareholders or members of such cooperative housing association;

(2) *Class 2 Property.* — (A) Class 2 Property shall be comprised of improved residential real property, which:

- (i) Is not occupied by the owner thereof;
- (ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and
- (iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 2 Property; provided, that less than 50% of the dwelling units contained therein are occupied by the shareholders or members of such cooperative housing association.

(C) Nothing in this subsection shall be construed to include hotels in the Class 2 Property classification;

(3) *Class 3 Property.* — Class 3 Property shall be comprised of all real property which is not Class 1 Property or Class 2 Property.

(c) For the property tax year beginning July 1, 1980, and ending June 30, 1981, and for each tax year thereafter, the following classes of real property are established:

(1) *Class 1 Property.* — (A) Class 1 Property shall be comprised of improved residential real property which:

- (i) Is occupied by the owner thereof;
- (ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and
- (iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 1 Property; provided, that at least 50% of the dwelling units contained therein are occupied by the shareholders or members of such cooperative housing association.

(C) Vacant real property which abuts improved residential real property qualified as Class 1 Property shall be classified as Class 1 Property if said vacant property and the improved residential real property which it abuts have common ownership. For the property tax year beginning July 1, 1984, and ending June 30, 1985, and for each tax year thereafter, vacant real property which is separated from Class 1 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 1 Property if the following conditions are met:

- (i) The vacant real property is less than 1,000 square feet in size;
- (ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structures on the vacant real property as a matter of right; and

(iii) The owner of the vacant real property also owns the Class 1 improved residential real property separated by the alley from the vacant lot;

(2) *Class 2 Property.* — (A) Class 2 Property shall be comprised of improved residential real property, including apartment buildings, which:

- (i) Is not occupied by the owner thereof;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 2 Property; provided, that less than 50% of the dwelling units contained therein are occupied by the shareholders or members of such cooperative housing association.

(C) Improved multifamily residential property which contains more than 5 dwelling units and is used exclusively for nontransient dwelling purposes shall also be classified as Class 2 Property.

(D) Vacant real property which abuts improved residential real property qualified as Class 2 Property shall be classified as Class 2 Property if said vacant property and the improved residential real property which it abuts have common ownership. For the property tax year beginning July 1, 1984, and ending June 30, 1985, and for each tax year thereafter, vacant real property which is separated from Class 2 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 2 Property if the following conditions are met:

(i) The vacant real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission do not allow the building of any structures on the vacant real property as a matter of right; and

(iii) The owner of the vacant real property also owns the Class 2 improved residential real property separated by the alley from the vacant lot.

(E) The Mayor may require an owner of real property to submit such information relating to the ownership of vacant real property as in the Mayor's judgment will assist in the determination of ownership of such property as required under this section for purposes of real property classification;

(3) *Class 3 Property.* — Class 3 Property shall be comprised of all real property which is not Class 1 Property or Class 2 Property. Vacant real property which abuts and has common ownership with real property subject to the apportionment provision of subsection (f) of this section shall also be classified as Class 3 Property.

(c-1) For the property tax year beginning July 1, 1985, and ending June 30, 1986, and for each subsequent tax year, the following classes of real property not covered in subsection (c-2) or (c-3) of this section are established:

(1) *Class 1 Property.* — (A) Class 1 Property shall be comprised of improved residential real property which:

(i) Is occupied by the owner of the property;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 1 Property, so long as at

least 50% of the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Vacant real property which abuts improved residential real property qualified as Class 1 Property shall be classified as Class 1 Property if the vacant property and the improved residential real property which it abuts have common ownership.

(D) Vacant real property which is separated from Class 1 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 1 Property if the following conditions are met:

(i) The vacant real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structures on the vacant real property as a matter of right; and

(iii) The owner of the vacant real property also owns the Class 1 improved residential real property separated by the alley from the vacant lot.

(2) *Class 2 Property.* — (A) Class 2 Property shall be comprised of improved residential real property, including buildings, which:

(i) Is not occupied by the owner thereof;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 2 Property, so long as less than 50% the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Improved multifamily residential property which contains more than 5 dwelling units and is used exclusively for nontransient dwelling purposes shall also be classified as Class 2 Property.

(D) Vacant real property which abuts improved residential real property qualified as Class 2 Property shall be classified as Class 2 Property if the vacant property and the improved residential real property which it abuts have common ownership.

(E) Vacant real property which is separated from Class 2 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 2 Property if the following conditions are met:

(i) The vacant real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission do not allow the building of any structures on the vacant real property as a matter of right; and

(iii) The owner of the vacant real property also owns the Class 2 improved residential real property separated by the alley from the vacant lot.

(F) The Mayor may require an owner of real property to submit such information relating to the ownership of vacant real property as in the Mayor's judgment will assist in the determination of ownership of the property as required under this section for purposes of real property classification.

(3) *Class 3 Property.* — (A) Class 3 Property shall be comprised of improved commercial real property, including hotels, motels, inns, or any other place, which is regularly used for the purpose of furnishing rooms, lodgings or accommodations to transients.

(B) For purposes of subparagraph (A) of this paragraph the term “transient” means a person who is merely sojourning in the District, including a person who is visiting for a few days, or comes to the District to perform some special service or attend some special event. Any person who is furnished accommodations for a period of 90 consecutive days or more shall no longer be considered a transient, but shall be considered a permanent resident of the hotel, motel or inn.

(4) *Class 4 Property.* — Class 4 Property shall be comprised of all real property which is not Class 1 Property, Class 2 Property or Class 3 Property. Vacant real property which abuts and has common ownership with real property subject to the apportionment provision of subsection (f) in this section shall also be classified as Class 4 Property.

(c-2) For the property tax year beginning July 1, 1990, and ending June 30, 1991, and the subsequent tax years beginning July 1, 1991, and ending June 30, 1992, and beginning July 1, 1992, and ending June 30, 1993, and for the period beginning July 1, 1993, and ending September 30, 1993, and beginning October 1, 1993, and ending September 30, 1994, the following classes of real property are established:

(1) *Class 1 Property.* — (A) Class 1 Property shall be comprised of improved residential real property which:

(i)(I) Is occupied by the owner of the property; or

(II) Is unoccupied due to a major fire, flood, or other casualty to the improved real property, if the improved real property was occupied by the owner of the property at the time of the casualty, and the major fire, flood, or other casualty occurred during the 12 months preceding the tax year and was not intentionally caused by the owner;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 1 Property, so long as at least 50% of the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Unimproved real property which abuts improved residential real property qualified as Class 1 Property shall be classified as Class 1 Property if the unimproved real property and the improved residential real property which it abuts have common ownership.

(D) Unimproved real property which is separated from Class 1 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 1 Property if the following conditions are met:

(i) The unimproved real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right; and

(iii) The owner of the unimproved real property also owns the Class 1 improved residential real property separated by the alley from the unimproved real property.

(2) *Class 2 Property.* — (A) Class 2 Property shall be comprised of improved residential real property, including buildings, which:

(i) Is not occupied by the owner thereof;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 2 Property, so long as less than 50% of the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Improved multifamily residential property which contains more than 5 dwelling units and is used exclusively for nontransient dwelling purposes shall also be classified as Class 2 Property.

(D) Unimproved real property which abuts improved residential real property qualified as Class 2 Property shall be classified as Class 2 Property if the unimproved real property and the improved residential real property which it abuts have common ownership.

(E) Unimproved real property which is separated from Class 2 improved residential real property by a public alley less than 30 feet wide shall be classified as Class 2 Property if the following conditions are met:

(i) The unimproved real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right; and

(iii) The owner of the unimproved real property also owns the Class 2 improved residential real property separated by the alley from the unimproved real property.

(F) The Mayor may require an owner of real property to submit such information relating to the ownership of unimproved real property as in the Mayor's judgment will assist in the determination of ownership of the property as required under this section for purposes of real property classification.

(3) *Class 3 Property.* — (A) Class 3 Property shall be comprised of improved commercial real property, including hotels, motels, inns, or any other place, which is regularly used for the purpose of furnishing rooms, lodgings, or accommodations to transients.

(B) For purposes of subparagraph (A) of this paragraph, the term "transient" means a person who is merely sojourning in the District, including a person who is visiting for a few days, or comes to the District to perform some

special service or attend some special event. Any person who is furnished accommodations for a period of 90 consecutive days or more shall no longer be considered a transient but shall be considered a permanent resident of the hotel, motel, or inn.

(4) *Class 4 Property.* — Class 4 Property shall be comprised of:

(A) All improved real property, which is not Class 1 Property, Class 2 Property, or Class 3 Property;

(B) Unimproved real property, which is not Class 1 Property, Class 2 Property, or Class 3 Property, if any of the following conditions are met:

(i) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right;

(ii) A building permit has been issued and is in effect as of July 1, 1990; or

(iii) The unimproved real property is used as a parking lot and each approval required from the District of Columbia government for use as a parking lot has been obtained;

(C) For the property tax year beginning July 1, 1991, and ending June 30, 1992, any improved or unimproved real property classified as Class 4 Property as of June 30, 1991, unless the real property qualifies as Class 1, Class 2, or Class 3;

(D) For the property tax year beginning July 1, 1991, and ending June 30, 1992, any unimproved real property that was classified as improved real property as of June 30, 1991, unless the real property qualifies as Class 1, Class 2, or Class 3; and

(E) Class 4 Property shall include, as of June 30 of the preceding tax year, the unimproved real property that is within the Northeast No. 1/Eckington Yards Special Treatment Area and the Buzzard Point/Near Southeast Development Opportunity Area, as designated on the District of Columbia Generalized Land Use Map dated November 1992 that is part of the Comprehensive Plan, provided that the real property is zoned for commercial development and the real property owner is engaged in predevelopment activities as supported by written documentation. For the purpose of this subparagraph, “the term predevelopment activities” means completion of 1 of the following:

(i) Preparation of subdivision or large tract review applications;

(ii) Preparation or application for District permits or authorizations to proceed with development;

(iii) Participation in special planning or transportation studies prepared in conjunction with the District; or

(iv) Completion of environmental assessment or mitigation studies prepared in conjunction with the District.

(5) *Class 5 Property.* — (A) Class 5 Property shall be comprised of all unimproved real property which is not Class 1 Property, Class 2 Property, Class 3 Property, or Class 4 Property.

(B) Unimproved real property that abuts and has common ownership with real property subject to the apportionment provision of subsection (f) of

this section and cannot be classified as Class 1 Property, Class 2 Property, Class 3 Property, or Class 4 Property shall also be classified as Class 5 Property.

(c-3) For the property tax year beginning October 1, 1994, and ending September 30, 1995, and for each subsequent tax year, the following classes of real property are established:

(1) *Class 1 Property*. — (A) Class 1 Property shall be comprised of improved residential real property that:

(i)(I) Is occupied by the owner of the property; or

(II) Is unoccupied due to a major fire, flood, or other casualty to the improved real property, if the improved real property was occupied by the owner of the property at the time of the casualty, and the major fire, flood, or other casualty occurred during the 12 months preceding the tax year and was not intentionally caused by the owner;

(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property that is owned by a cooperative housing association shall also be classified as Class 1 Property so long as at least 50% of the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Class 1 Property that becomes unoccupied shall be classified as Class 2 Property if the property becomes unoccupied due to any of the following conditions:

(i) Repealed;

(ii) The improved real property is actively for sale at a reasonable market price as of June 30 of the preceding tax year;

(iii) A building or demolition permit has been issued and building or demolition is actively pursued as of June 30 of the preceding tax year; or

(iv) The improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation.

(D) Unimproved real property which abuts improved and occupied residential real property qualified as Class 1 Property shall be classified as Class 1 Property if the unimproved real property and the improved and occupied residential real property which it abuts have common ownership.

(E) Unimproved real property which is separated from Class 1 improved and occupied residential real property by a public alley less than 30 feet wide shall be classified as Class 1 Property if the following conditions are met:

(i) The unimproved real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right; and

(iii) The owner of the unimproved real property also owns the Class 1 improved and occupied residential real property separated by the alley from the unimproved real property.

(2) *Class 2 Property.* — (A) Class 2 Property shall be comprised of improved and occupied residential real property, including a building, that:

- (i) Is occupied, but not by the owner;
- (ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and
- (iii) Is used exclusively for nontransient residential dwelling purposes.

(B) Improved residential real property which is owned by a cooperative housing association shall also be classified as Class 2 Property so long as less than 50% of the dwelling units are occupied by the shareholders or members of the cooperative housing association.

(C) Improved and occupied multifamily residential real property which contains more than 5 dwelling units and is used exclusively for nontransient purposes shall also be classified as Class 2 Property.

(D) Unimproved real property which abuts improved and occupied residential real property qualified as Class 2 Property shall be classified as Class 2 Property if the unimproved real property and the improved and occupied residential real property which it abuts have common ownership.

(E) Unimproved real property which is separated from Class 2 improved and occupied residential real property by a public alley less than 30 feet wide shall be classified as Class 2 Property if the following conditions are met:

(i) The unimproved real property is less than 1,000 square feet in size;

(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right; and

(iii) The owner of the unimproved real property also owns the Class 2 improved and occupied residential real property separated by the alley from the unimproved real property.

(F) Class 2 Property that becomes unoccupied shall be classified as Class 4 Property if it becomes unoccupied due to any of the following conditions:

(i) A major fire, flood, or other casualty to the improved real property, which was not intentionally caused by the owner, has occurred during the 12 months preceding the tax year;

(ii) A building or demolition permit has been issued and building or demolition is actively pursued as of June 30 of the preceding tax year;

(iii) The improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation; or

(iv) An application for a necessary approval for development of the improved real property is pending, as of June 30 of the preceding tax year, before the Board of Zoning Adjustment, the Zoning Commission, the Commission of Fine Arts, the Historic Preservation Review Board, or the National Capital Planning Commission.

(G) Improved real property described in paragraph (1) (C) of this subsection.

(3) *Class 3 Property.* — (A) Class 3 Property shall be comprised of improved and occupied commercial real property, including hotels, motels, inns, or any other place, which is regularly used for the purpose of furnishing rooms, lodgings, or accommodations to transients.

(B) For purposes of subparagraph (A) of this paragraph, the term “transient” means a person who is merely sojourning in the District, including a person who is visiting for a few days, or comes to the District to perform some special service or attend some special event. Any person who is furnished accommodations for a period of 90 consecutive days or more shall no longer be considered a transient, but shall be considered a permanent resident of the hotel, motel, or inn.

(C) Class 3 Property that becomes unoccupied shall be classified as Class 4 Property if it becomes unoccupied due to any of the following conditions:

(i) A major fire, flood, or other casualty to the improved real property, which was not intentionally caused by the owner, has occurred during the 12 months preceding the tax year;

(ii) A building or demolition permit has been issued and building or demolition is actively pursued as of June 30 of the preceding tax year;

(iii) The improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation; or

(iv) An application for a necessary approval for development of the improved real property is pending, as of June 30 of the preceding tax year, before the Board of Zoning Adjustment, the Zoning Commission, the Commission of Fine Arts, the Historic Preservation Review Board, or the National Capital Planning Commission.

(4) *Class 4 Property.* — (A) Class 4 Property shall be comprised of all improved and occupied real property, which is not Class 1 Property, Class 2 Property, or Class 3 Property.

(B) Class 4 Property that becomes unoccupied shall be classified as Class 4 Property if it becomes unoccupied due to any of the following conditions:

(i) A major fire, flood, or other casualty to the improved real property, which was not intentionally caused by the owner, has occurred during the 12 months preceding the tax year;

(ii) A building or demolition permit has been issued and building or demolition is actively pursued as of June 30 of the preceding tax year;

(iii) The improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation; or

(iv) An application for a necessary approval for development of the improved real property is pending, as of June 30 of the preceding tax year, before the Board of Zoning Adjustment, the Zoning Commission, the Commission of Fine Arts, the Historic Preservation Review Board, or the National Capital Planning Commission.

(C) Unoccupied improved real property that is not classified as Class 1 Property, Class 2 Property, or Class 3 Property shall be classified as Class 4 Property if the property is:

(i) A historic landmark pursuant to subchapter I of Chapter 10 of Title 5; or

(ii) The subject of an agreement that runs with the land and provides for the preservation of certain historic features of the improvement.

(D) Unoccupied improved real property that has been unoccupied since completion of initial construction or total renovation pursuant to a building permit issued during the 24 months preceding the tax year shall be classified as Class 4 Property.

(E) Unimproved real property which is not classified as Class 1 Property, Class 2 Property, or Class 3 Property shall be classified as Class 4 Property if any of the following conditions are met:

(i) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the unimproved real property as a matter of right;

(ii) The unimproved real property is the subject of a public hearing set down by the Zoning Commission for the District of Columbia on a proposed overlay zone or on a proposed downzoning, other than a downzoning pursuant to §§ 1-249 and 1-250;

(iii) The unimproved real property is encumbered by a deed of trust that was recorded during the 24 months preceding the tax year;

(iv) A building permit has been issued and building is actively pursued as of June 30th of the preceding tax year;

(v) The unimproved real property is used as a parking lot and each approval required from the District of Columbia government for use as a parking lot has been obtained;

(vi) The unimproved real property is the subject of a probate proceeding or title to the unimproved real property is the subject of litigation; or

(vii) An application for a necessary approval for development of the unimproved real property is pending as of June 30th of the preceding tax year before the Board of Zoning Adjustment, the Zoning Commission, the Commission of Fine Arts, the Historic Preservation Review Board, or the National Capital Planning Commission.

(F) Improved real property described in paragraphs (2)(F) and (3)(C) of this subsection.

(G) Class 4 Property shall include, as of June 30 of the preceding tax year, the unimproved real property that is within the Northeast No. 1/Eckington Yards Special Treatment Area and the Buzzard Point/Near Southeast Development Opportunity Area, as designated on the District of Columbia Generalized Land Use Map dated November 1992 that is part of the Comprehensive Plan; provided, that the real property is zoned for commercial development and the real property owner is engaged in predevelopment activities as supported by written documentation. For the purpose of this subparagraph, "the term predevelopment activities" means completion of 1 of the following:

(i) Preparation of subdivision or Large Tract Review applications;

(ii) Preparation or application for District permits or authorizations to proceed with development;

(iii) Participation in special planning or transportation studies prepared in conjunction with the District; or

(iv) Completion of environmental assessment or mitigation studies prepared in conjunction with the District.

(5) *Class 5 Property*. — (A) Class 5 Property shall be comprised of all real property which is not Class 1 Property, Class 2 Property, Class 3 Property, or Class 4 Property.

(B) Unimproved real property that abuts and has common ownership with real property subject to the apportionment provision of subsection (f) of this section and cannot be classified as Class 1 Property, Class 2 Property, Class 3 Property, or Class 4 Property shall also be classified as Class 5 Property.

(d) For the purposes of subsections (b), (c), (c-1), (c-2), and (c-3) of this section:

(1) The term “condominium” means the ownership of a single dwelling unit in a horizontal property regime as that term is used in § 45-1703.

(2) The term “cooperative housing association” means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease or other evidence of membership, are entitled to occupy a single dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement.

(3) The term “dwelling unit” means any room or group of rooms forming a single unit which is used for living, sleeping, and the preparation and eating of meals.

(4) The term “nontransient” means occupancy of a dwelling unit or units by any person for a period of more than 5 consecutive days during any 1 stay in such unit.

(d-1) For the purposes of subsection (c-3) of this section:

(1) The term “occupied” means the use of or residence in improved real property on a regular basis. Improved residential real property that is occupied only by a person who serves as a caretaker of the improvement shall be considered unoccupied.

(2) To assist in the determination of real property classification for the tax year beginning July 1, 1991, and ending June 30, 1992, and each subsequent tax year, the Mayor shall devise a form and mail the form to the owner of real property classified as Class 2 Property, Class 3 Property, Class 4 Property, or Class 5 Property between January 1, 1991, and June 30, 1991, and biennially thereafter. The owner shall complete the form and return it to the Mayor within 30 days of the date the form was mailed to the owner. The Mayor may grant a reasonable extension of time, not to exceed 30 days, to file the form if the Mayor deems that good cause exists for an extension of time.

(3) The Mayor may require an owner of real property to submit any information that the Mayor deems relevant to the determination of real property classification.

(4) In a case in which the occupancy of improved real property is disputed, the Mayor shall require the owner of the real property to submit at least 2 of the following items:

- (A) A certificate of occupancy;
- (B) Registration or claim of exemption filed with the Rent Administrator;
- (C) Water and sewer bills paid for the period of occupancy claimed on the form;
- (D) Gas bills paid for the period of occupancy claimed on the form;
- (E) Electricity bills paid for the period of occupancy claimed on the form;
- (F) A lease agreement for the period of occupancy claimed on the form;
- (G) A sales tax return required by § 47-2015, for payment of the tax imposed under § 47-2002(1); or
- (H) Any other evidence that the Mayor deems relevant to the determination of whether improved real property is occupied.

(5) An owner of real property that becomes unoccupied shall notify the Mayor within 30 days of the date that the property becomes unoccupied. Failure to timely notify the Mayor that real property has become unoccupied shall subject the owner to a penalty equal to 25% of the real property tax owed for the tax year. The Mayor may waive the penalty for just cause.

(6) If an owner of real property subject to the reporting requirements of this subsection fails to complete or return the required form or falsifies the required form, the real property shall be reclassified in accordance with the provisions of subsection (c-3) of this section and the owner shall be assessed a penalty equal to 25% of the real property tax owed for the tax year or \$5,000, whichever is greater. The Mayor may waive the penalty for just cause.

(e)(1) An application properly completed and timely filed in the manner and at the time as the Mayor shall prescribe, shall be required for purposes of classifying real property as Class 1 Property and imposing the applicable rate of taxation thereon. The Mayor may require an owner of real property to submit such additional information as in the Mayor's judgment will assist in determining the classification of real property under subsections (b), (c), (c-1), (c-2), and (c-3) of this section, such information to be submitted at the time and in the manner prescribed by the Mayor.

(2) Whenever any real property which obtained the Class 1 Property tax rate provided for in this section for the preceding tax year becomes ineligible for the Class 1 Property tax rate, the owner of such property shall notify the Mayor (in the manner and at the time as the Mayor shall prescribe) of the termination of eligibility. The Mayor may verify the eligibility of any real property, for which the Class 1 Property tax rate has been provided for any tax year, for the tax rate for any subsequent tax year.

(3) If any owner of real property subject to the provisions of this section who is required to notify the Mayor under this subsection of a termination of eligibility for any tax year fails to notify the Mayor (in the manner and at the time as the Mayor shall prescribe) of the termination, the Class 1 Property tax rate shall be disallowed for each such tax year, and the property shall be reclassified in accordance with this section and shall be taxed at the appropriate rate of taxation for that class. There shall be added to the tax a penalty of 10% of the tax owed for each tax year in which the property was reclassified.

(f)(1) Commencing with the property tax year beginning July 1, 1980, and ending June 30, 1981, and for each tax year thereafter, when the uses of real property fall within more than 1 of the classes enumerated in subsections (c), (c-1), (c-2), and (c-3) of this section, the total assessed value of the property shall be apportioned into the appropriate classes of real property as defined in subsections (c), (c-1), (c-2), and (c-3) of this section, and each of the areas resulting from the apportionment shall be taxed at the appropriate real property tax rate.

(2) For purposes of this subsection, the Mayor shall devise a method for apportioning, by class, real property whose uses fall within more than 1 class. The Mayor may require an owner of real property to submit, at a time and in a form prescribed, such information relating to the uses of property as in the Mayor's judgment will assist in the apportionment of property by class for real property classification purposes as required by this section. (1973 Ed., § 47-632.1; Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 412a, as added Nov. 20, 1979, D.C. Law 3-37, § 2(b), 26 DCR 1564; July 24, 1982, D.C. Law 4-129, § 3, 29 DCR 2405; Mar. 14, 1984, D.C. Law 5-60, § 2, 31 DCR 108; Nov. 19, 1985, D.C. Law 6-51, § 3(b), (c), 32 DCR 5681; July 25, 1990, D.C. Law 8-146, § 2(a), 37 DCR 3707; Sept. 20, 1990, D.C. Law 8-160, § 2(a), 37 DCR 4653; Sept. 27, 1990, D.C. Law 8-172, § 2(a), 37 DCR 4844; Aug. 17, 1991, D.C. Law 9-21, § 2, 38 DCR 4078; Mar. 7, 1992, D.C. Law 9-62, § 2(a), 38 DCR 7291; May 21, 1992, D.C. Law 9-113, § 2, 39 DCR 2254; Oct. 7, 1992, D.C. Law 9-177, § 3, 39 DCR 5868; Aug. 6, 1993, D.C. Law 10-11, § 102, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 102, 40 DCR 5489; Jan. 26, 1994, D.C. Law 10-66, § 3, 40 DCR 7358; Feb. 5, 1994, D.C. Law 10-68, § 41, 40 DCR 6311; Sept. 24, 1994, D.C. Law 10-178, § 5, 41 DCR 5205; Sept. 26, 1995, D.C. Law 11-52, § 107, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administration and enforcement of provisions relating to qualified lower income homeownership households, see § 47-3504.

Section references. — This section is referred to in §§ 5-1403, 40-851, 45-922, 47-812, 47-815, 47-823, 47-825.1, 47-830, 47-845, 47-871, and 47-3504.

Effect of amendments. — D.C. Law 11-52 redesignated former (e) as (e)(1); substituted "in the manner and at the time as the Mayor shall prescribe" for "in accordance with § 47-850(e)" in (e)(1); and added (e)(2) and (3).

Temporary amendments of section. — Section 2(a) of D.C. Law 11-70 amended subsection (c-2) to read as follows:

"(c-2) For the property tax year beginning July 1, 1990, and ending June 30, 1991, and the subsequent tax years beginning July 1, 1991, and ending June 30, 1992, and beginning July 1, 1992, and ending June 30, 1993, and for the period beginning July 1, 1993, and ending September 30, 1993, and beginning October 1, 1993, and ending September 30, 1994, and

beginning October 1, 1994, and ending September 30, 1995, the following classes of real property are established:

"(1) *Class 1 Property.* —

"(A) Class 1 Property shall be comprised of improved residential real property which:

"(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium;

"(iii) Is used exclusively for nontransient residential dwelling purposes; and

"(iv) If Class 1 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 2 Property. It shall remain classified as Class 2 Property for 2 years beginning from the date the property became unoccupied. If within the 2-year period the property becomes occupied by the owner and otherwise meets the requirements for Class 1 Property, it shall be classified as Class 1 Property. If within the 2-year period, the prop-

erty becomes occupied by someone other than the owner, it shall be classified in accordance with its occupancy and use for the real property tax year that immediately follows the date the property becomes occupied. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

“(2) *Class 2 Property.* —

“(A) Class 2 Property shall be comprised of improved residential real property, including buildings, which:

“(ii) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium;

“(iii) Is used exclusively for nontransient residential dwelling purposes; and

“(iv) If Class 2 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 2 Property. It shall remain Class 2 Property if the property becomes occupied for Class 2 Property purposes within 2 years from the date it became unoccupied. It shall remain classified as Class 2 Property for the 2-year period or until it becomes occupied for use other than for Class 2 Property purposes, whichever occurs first. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

“(3) *Class 3 Property.* —

“(A) Class 3 Property shall be comprised of improved commercial real property, including hotels, motels, inns, or any other place, which is regularly used for the purpose of furnishing rooms, lodgings, or accommodations to transients. If Class 3 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 3 Property. It shall remain classified as Class 3 Property if the property becomes occupied for Class 3 Property purposes within 2 years from the date it became unoccupied. It shall remain classified as Class 3 Property for the 2-year period or until the property becomes occupied for use other than for Class 3 Property purposes, whichever occurs first. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

“(4) *Class 4 Property.* — Class 4 Property shall be comprised of:

“(B) Unimproved real property, which is not Class 1 Property, Class 2 Property, or Class 3 Property, if any of the following conditions are met:

“(ii) A building permit has been issued and is in effect as of October 1, 1994; or

“(F) Any unimproved air rights lot which appertains to improved real property, unless the air rights lot otherwise qualifies as Class 1 Property, Class 2 Property, or Class 3 Property.”

Section 2(b) of D.C. Law 11-70 inserted a new subsection (c-2A) to read as follows:

“(c-2A) For purposes of subsection (c-2) of this section, real property for which a supplemental assessment was conducted pursuant to section 5(b) of Title IX of the District Columbia Revenue Act of 1937, approved May 16, 1938 (52 Stat. 373; D.C. Code § 47-829), shall be classified in accordance with its intended use; provided, however, that residential real property shall only be classified in accordance with its actual occupancy and use.”

Section 2(c) of D.C. Law 11-70 amended subsection (c-3) to read as follows:

“(c-3) For the real property tax year beginning October 1, 1995, and ending September 30, 1996, and for each subsequent tax year, the following classes of real property are established:

“(1) *Class 1 Property.* —

“(C) If Class 1 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 2 Property. It shall remain classified as Class 2 Property for 2 years beginning from the date the property became unoccupied. If within the 2-year period the property becomes occupied by the owner and otherwise meets the requirements for Class 1 Property, it shall be classified as Class 1 Property. If the property becomes occupied by someone other than the owner, it shall be classified in accordance with its occupancy and use for the real property tax year that immediately follows the date the property became occupied. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

"(F) Class 1 Property that becomes unoccupied shall remain classified as Class 1 Property if that property becomes unoccupied because the improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation.

"(2) *Class 2 Property.* —

"(A) Class 2 Property shall be comprised of improved and occupied residential real property, including a building, that:

"(iv) If Class 2 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 2 Property. It shall remain classified as Class 2 Property if the property becomes occupied for Class 2 Property purposes within 2 years from the date it became unoccupied. It shall remain classified as Class 2 Property for the 2-year period or until the property becomes occupied for use other than for Class 2 Property purposes, whichever occurs first. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

"(F) [Repealed].

"(H) Class 2 Property that becomes unoccupied shall remain classified as Class 2 Property if that property becomes unoccupied because the improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation.

"(3) *Class 3 Property.* —

"(A) Class 3 Property shall be comprised of improved and occupied commercial real property, including hotels, motels, inns, or any other place, which is regularly used for the purpose of furnishing rooms, lodgings, or accommodations to transients.

"(i) If Class 3 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 3 Property. It shall remain classified as Class 3 Property if the property becomes occupied for Class 3 Property purposes within 2 years from the date it became unoccupied. It shall remain classified as Class 3 Property for the 2-year period or until the property becomes occupied for use other than for Class 3 Property purposes, whichever occurs first. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

"(C) [Repealed].

"(D) Class 3 Property that becomes unoccupied shall remain classified as Class 3 Property if that property becomes unoccupied because the improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation.

"(4) *Class 4 Property.* —

"(B) If Class 4 Property becomes unoccupied by September 30 of the preceding tax year, it shall be classified as Class 4 Property. It shall remain classified as Class 4 Property if the property becomes occupied for Class 4 Property purposes within 2 years from the date it became unoccupied. It shall remain classified as Class 4 Property for the 2-year period or until the property becomes occupied for use other than for Class 4 Property purposes, whichever occurs first. If the property remains unoccupied for more than the 2-year period, it shall be classified as Class 5 Property for the real property tax year that immediately follows the date that the 2-year period expired.

"(D) [Repealed].

"(E) Unimproved real property, which is not classified as Class 1 Property, Class 2 Property, or Class 3 Property, shall be classified as Class 4 Property if any of the following conditions are met:

"(iii) [Repealed].

"(iv) A building permit is in effect as of September 30 of the preceding tax year.

"(vi) [Repealed].

"(vii) [Repealed].

"(viii) The unimproved real property abuts improved real property that is classified as Class 3 Property or Class 4 Property, is maintained as a planned open space, and has common ownership with the improved Class 3 Property or Class 4 Property that it abuts.

"(F) [Repealed].

"(H) Class 4 Property that becomes unoccupied shall remain classified as Class 4 Property if that property becomes unoccupied because the improved real property is the subject of a probate proceeding or title to the improved real property is the subject of litigation.

"(I) Any unimproved air rights lot which appertains to improved real property, unless

the air rights lot otherwise qualifies as Class 1 Property, Class 2 Property, or Class 3 Property.

"(J)(1) Notwithstanding any other provision of subsection (c-3) of this section, real property for which a building permit has been issued and building is being actively pursued as of September 30 of the preceding tax year shall be classified as Class 4 Property for up to 3 years from the date the building permit was issued or until the property becomes occupied, whichever occurs first. If the property becomes occupied within the 3-year period, the property shall be classified in accordance with its occupancy and use. If the property remains unoccupied for more than the 3-year period, the property shall be classified as Class 5 Property for the real property tax year that immediately follows the real property tax year during which the 3-year period expired

"(2) Notwithstanding any other provision of subsection (c-3) of this section, real property for which an application for the necessary approval for development of real property is pending, as of September 30 of the preceding tax year, before the Board of Zoning Adjustment, the Zoning Commission, the Commission of Fine Arts, the Historic Preservation Board, or the National Capital Planning Commission shall be classified as Class 4 Property for up to 3 years from the date the application was submitted or until the property becomes occupied, whichever occurs first. If the property becomes occupied within the 3-year period, the property shall be classified in accordance with its occupancy and use. If the property remains unoccupied for more than the 3-year period, the property shall be classified as Class 5 Property for the real property tax year that immediately follows the real property tax year during which the 3-year period expired.

"(5) *Class 5 Property.* —

"(A) Class 5 Property shall be comprised of all unimproved real property which is not Class 1 Property, Class 2 Property, Class 3 Property, or Class 4 Property.

"(C) Class 5 Property shall be comprised of unoccupied improved real property that has been unoccupied for 2 or more years on September 30 of the preceding the tax year. In the case of real property for which a supplemental assessment was conducted pursuant to section 5(b) of Title IX of the District of Columbia Revenue Act of 1937, approved May 16, 1938 (52 Stat. 373; D.C. Code § 47-829), the 2 or more years shall begin on the date that the assessment roll and tax list were first revised to reflect the estimated market value of such property.

"(D) Notwithstanding any other provisions of subsection (c-3) of this section, any real prop-

erty that is subject to an order of condemnation issued by the Board for the Condemnation of Insanitary Buildings, which is established pursuant to section 3 of An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Code § 5-703), shall be classified as Class 5 Property within 1 year of such order unless the condemnation order expressly authorizes the improved property to be occupied."

Section (2)(d) of D.C. Law 11-70 inserted a new subsection (c-3A) to read as follows:

"(c-3A) For purposes of subsection (c-3) of this section, real property for which a supplemental assessment was conducted pursuant to section 5(b) of Title IX of the District of Columbia Revenue Act of 1937, approved May 16, 1938 (52 Stat. 373, D.C. Code § 47-829), shall be classified in accordance with its intended use; provided, however, that residential real property shall only be classified in accordance with its actual occupancy and use."

Section (2)(e) of D.C. Law 11-70 amended subsection (d-1) to read as follows:

"(d-1) For the purposes of subsection (c-3) of this section:

"(1)(a) The term "occupied" means not unoccupied.

"(b) The term "unoccupied" means:

"(1) In the case of real property constructed, converted, or used for nontransient residential dwelling purposes, real property that:

"(A) Is uninhabited;

"(B) Is inhabited solely by a person who does not have lawful permission to inhabit the property; or

"(C) Is subject to an order of condemnation issued by the Board for the Condemnation of Insanitary Buildings pursuant to section 3 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Code § 5-703), unless the condemnation order expressly authorizes the improved property to be occupied.

"(2) In the case of real property not constructed, converted, nor used for nontransient residential dwelling purposes, real property that:

"(A) Is abandoned by all owners;

"(B) Is secured to prevent use or occupancy; or

"(C) Is subject to an order of condemnation issued by the Board for Condemnation of Insanitary Buildings section 3 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Code § 5-703), unless the condemnation order expressly authorizes the improved property to be occupied.

"(c) The term "abandoned" means to relin-

quish or give up a right or interest in real property with the intent of never again reasserting the right or resuming the interest.

“(d) Real property that is the subject of a probate proceeding or litigation regarding ownership or occupancy of the property shall not be classified as Class 5 Property.

“(2) To assist in the determination of real property classification, the Mayor may devise a form and mail the form to owners of real property, as the Mayor deems appropriate. The owner shall complete and return the form within the time prescribed by the Mayor.

“(4) [Repealed].

“(6) If an owner of real property subject to the reporting requirements of this subsection fails to complete or return the required form or falsifies the required form, the real property shall be reclassified in accordance with the provisions of subsection (c-3) of this section and the owner shall be assessed a penalty equal to 25% of the real property tax owed for the tax year or \$5,000, whichever is greater. The Mayor may waive the penalty for just cause.”

Section 3 of D.C. Law 11-70 provides that section 2(a)(5)(B) of the act, which added (c-2)(4)(F), shall take effect as of October 1, 1994.

Section 4(b) of D.C. Law 11-70 provides that the act shall expire on the 225th day of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 107 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 3-37. — See note to § 47-812.

Legislative history of Law 4-129. — See note to § 47-850.

Legislative history of Law 5-60. — Law 5-60, the “Residential Gardens and Open Space Real Property Tax Classification Amendment Act of 1983,” was introduced in Council and assigned Bill No. 5-238, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 15, 1983 and December 6, 1983, respectively. Signed by the Mayor on December 23, 1983, it was assigned Act No. 5-91 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-51. — See note to § 47-812.

Legislative history of Law 8-146. — Law 8-146, the “District of Columbia Real Property Tax Reclassification Amendment Temporary Act of 1990,” was introduced in Council and assigned Bill No. 8-566. The Bill was adopted

on first and second readings on May 1, 1990, and May 15, 1990, respectively. Signed by the Mayor on May 24, 1990, it was assigned Act No. 8-204 and transmitted to both Houses of Congress for its review. D.C. Law 8-146 became effective on July 25, 1990.

Legislative history of Law 8-160. — Law 8-160, the “District of Columbia Real Property Tax Reclassification Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-537, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 29, 1990, and June 12, 1990, respectively. Signed by the Mayor on June 29, 1990, it was assigned Act No. 8-223 and transmitted to both Houses of Congress for its review. D.C. Law 8-160 became effective on September 30, 1990.

Legislative history of Law 8-172. — See note to § 47-812.

Legislative history of Law 9-21. — Law 9-21, the “Real Property Clarification Temporary Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-207. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-45 and transmitted to both Houses of Congress for its review. D.C. Law 9-21 became effective on August 17, 1991.

Legislative history of Law 9-62. — See note to § 47-812.

Legislative history of Law 9-113. — Law 9-113, the “District of Columbia Real Property Tax Revision Temporary Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-4432, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 4, 1992, and March 3, 1992, respectively. Approved without the signature of the Mayor on March 24, 1992, it was assigned Act No. 9-185 and transmitted to both Houses of Congress for its review. D.C. Law 9-113 became effective on May 21, 1992.

Legislative history of Law 9-177. — See note to § 47-812.

Legislative history of Law 10-11. — See note to § 47-802.

Legislative history of Law 10-25. — See note to § 47-802.

Legislative history of Law 10-66. — See note to § 47-812.

Legislative history of Law 10-68. — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for

its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-178. — Law 10-178, the “District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-10, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 7, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 26, 1994, it was assigned Act No. 10-303 and transmitted to both Houses of Congress for its review. D.C. Law 10-178 became effective on September 24, 1994.

Legislative history of Law 11-52. — See note to § 47-811.1.

Legislative history of Law 11-70. — Law 11-70, the “Real Property Tax Reclassification Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-380. The Bill was adopted on first and second readings on July 11, 1995, and July 29, 1995, respectively. Signed by the Mayor on August 11, 1995, it was assigned Act No. 11-134 and transmitted to both Houses of Congress for its review. D.C. Law 11-70 became effective on October 27, 1995.

Mayor authorized to issue rules. — See note to § 47-812.

Section 4 of D.C. Law 8-146 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1 issue proposed rules to implement the provisions of this act. The proposed rules shall be submitted to the Council no later than June 15, 1990, for a 30-day period of review. If the Council does not approve or disapprove the proposed rules, in whole or in part by resolution within this 30-day review period, the proposed rules shall be deemed approved.

Section 4 of D.C. Law 8-160 provided that the Mayor shall, pursuant to subtitle I of Chapter 15 of Title 1 issue proposed rules to implement the provisions of the District of Columbia Real Property Tax Reclassification Amendment Act of 1990. The proposed rules shall be submitted to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 60-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subtitle I of Chapter 15 of Title 1.

Delegation of authority pursuant to Law 6-51. — See Mayor’s Order 86-6, January 14, 1986.

Delegation of authority under D.C. Act 8-203, the D.C. Real Property Tax Reclassification Amendment Emergency Act of 1990. — See Mayor’s Order 90-86, June 15, 1990.

Apportionment of mixed use property. — Promulgated regulations governing the apportionment of mixed use property, the primary feature of which is a requirement that affected taxpayers file annually a mixed use form, were valid. *District of Columbia v. Willard Assocs.*, App. D.C., 655 A.2d 1237 (1995).

In cases involving property, all of which is conceded to be commercial, the Mayor may conduct the entitlement to mixed use apportionment on submission of necessary information by the taxpayer. *District of Columbia v. Willard Assocs.*, App. D.C., 655 A.2d 1237 (1995).

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991); *Hessey v. Burden*, App. D.C., 615 A.2d 562 (1992).

§ 47-814. Rules and regulations.

The Mayor of the District of Columbia is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this act. (1973 Ed., § 47-632.2; Nov. 20, 1979, D.C. Law 3-37, § 7, 26 DCR 1564; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-37. — See note to § 47-812.

References in text. — “This act”, referred to at the end of this section, is D.C. Law 3-37,

the Real Property Tax Classifications Act for Tax Year 1980.

Cited in *District of Columbia v. Willard Assocs.*, App. D.C., 655 A.2d 1237 (1995).

§ 47-815. Submission and publication of proposed rates and certain assessed values.

(a) On or before the third Friday in August of each year, the Mayor shall publish in the District of Columbia Register proposed real property tax rates to

be applied, during the tax year, to the classes of real property set forth in § 47-813. The Mayor shall certify the assessment roll and calculate the proposed rates pursuant to § 47-825.1(h). On or before September 15th of each year, the Mayor shall submit to the Council these same rates.

(a-1) [Repealed].

(a-2) [Repealed].

(a-3) Notwithstanding the first sentence of subsection (a) of this section, the Mayor shall publish in the District of Columbia Register the proposed 1997 real property tax rates by the third Friday following the date the 1997 real property assessment roll is certified.

(b) At the time the Mayor publishes in the District of Columbia Register the proposed real property tax rates under subsection (a) of this section, he or she shall also submit the following:

(1) The total aggregate assessed value of taxable real property for the year preceding the tax year for which the rates are being recommended, listing the values of such properties by class as set forth in § 47-813(c-1), (c-2), and (c-3);

(2) The estimated total aggregate assessed value of taxable real property for the tax year for which the property tax rates are being recommended, listing the values of such properties by class as set forth in § 47-813(c-1), (c-2), and (c-3) and indicating separately for each class the estimated value, if any, attributable to new construction; and

(3) The real property tax rates (rounded to the nearest penny) calculated to yield in the tax year the same amount of revenue (exclusive of the revenue attributable to new construction) as was raised by that tax at the rate or rates applicable during the preceding tax year, plus a percentage of such revenue equal to the percentage change between the consumer price index for the first calendar year preceding the tax year and the consumer price index for the 2nd calendar year preceding the tax year. The consumer price index referred to in the preceding sentence shall be the Annual Average Washington, D.C., All-Items Consumer Price Index, For All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) [Repealed].

(d) As soon as possible after the Mayor publishes in the District of Columbia Register the proposed real property tax rates under subsection (a) of this section, he or she shall also publish such proposed real property tax rates and the information submitted pursuant to subsection (b) of this section in at least 1 daily newspaper of general circulation published in the District of Columbia.

(e) No later than 4 days (not including Saturdays, Sundays or holidays) after the official release of the consumer price index referred to in subsection (b)(3) of this section, the Mayor shall estimate as closely as possible the rates of taxation for real property pursuant to subsection (b)(3) of this section and shall inform the Council.

(f) For the real property tax year beginning July 1, 1989, and ending June 30, 1990, and for each tax year thereafter, the tax liability resulting from applying the rates established in this section and § 47-812, to qualified real property approved pursuant to § 5-1403:

(1) Shall be reduced by 80% in the first tax year beginning after the date of issuance of the certificate of occupancy for the qualified real property; and

(2) Shall be reduced by 64%, 48%, 32%, and 16% in the second, third, fourth, and fifth tax years, respectively, beginning after the issuance of the certificate of occupancy for the qualified real property. (1973 Ed., § 47-633; Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 413; Jan. 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 6(a)(1), (b); June 15, 1976, D.C. Law 1-70, title III, §§ 302(b), 305, 23 DCR 539, 540; Mar. 3, 1979, D.C. Law 2-130, § 3(b), 25 DCR 2517; Nov. 20, 1979, D.C. Law 3-37, § 2(c), 26 DCR 1564; June 22, 1983, D.C. Law 5-14, § 602, 30 DCR 2632; Oct. 20, 1988, D.C. Law 7-177, § 6(a), 35 DCR 6158; July 25, 1990, D.C. Law 8-146, § 2(b), 37 DCR 3707; Sept. 20, 1990, D.C. Law 8-160, § 2(b), 37 DCR 4653; Mar. 17, 1993, D.C. Law 9-241, § 2(a), 40 DCR 629; Apr. 30, 1994, D.C. Law 10-115, § 201, 41 DCR 1216; June 14, 1994, D.C. Law 10-127, § 5(b), 41 DCR 2050; Apr. 26, 1996, 110 Stat. 132 [211], Pub. L. 104-134, § 135(2); June 13, 1996, D.C. Law 11-143, § 6, 43 DCR 2170; Apr. 9, 1997, D.C. Law 11-220, § 2(a), 43 DCR 6181; Apr. 9, 1997, D.C. Law 11-223, § 2(a), 44 DCR 111; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 5-1403, 47-812, 47-816, and 47-825.1.

Effect of amendments. — Public Law 104-134, 110 Stat. 1321[211], repealed (c).

D.C. Law 11-143 repealed (a-1) and (a-2).

D.C. Law 11-223 inserted (a-3).

Temporary amendment of section. — Section 2(a) of D.C. Law 11-220 inserted (a-3).

Section 3 of D.C. Law 11-220 provided that § 2(a) shall apply as of August 15, 1996.

Section 5(b) of D.C. Law 11-220 provided that the act shall expire after 225 days of its having taken effect or upon the effective date of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Year 1998 Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Emergency Amendment Act of 1996 (D.C. Act 11-407, October 28, 1996, 43 DCR 6329), and § 2(a) of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-9, March 3, 1997, 44 DCR 1630).

For temporary amendment of section, see § 6 of the Tax Revision Commission Establishment Emergency Act of 1996 (D.C. Act 11-259, April 18, 1996, 43 DCR 2166).

Section 3 of D.C. Act 11-407 provides for application of the act.

Legislative history of Law 1-70. — See note to § 47-811.

Legislative history of Law 2-130. — See note to § 47-803.

Legislative history of Law 3-37. — See note to § 47-812.

Legislative history of Law 5-14. — Law 5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-177. — See note to § 47-846.1.

Legislative history of Law 8-146. — See note to § 47-813.

Legislative history of Law 8-160. — See note to § 47-813.

Legislative history of Law 9-241. — See note to § 47-825.1.

Legislative history of Law 10-115. — Law 10-115, the "Financial Administration Revision and Clarification Act of 1994," was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

Legislative history of Law 10-127. — See note to § 47-812.

Legislative history of Law 11-143. — Law 11-143, the "Tax Revision Commission Estab-

lishment Act of 1996," was introduced in Council and assigned Bill No. 11-383, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 5, 1996, and April 2, 1996, respectively. Signed by the Mayor on April 18, 1996, it was assigned Act No. 11-383 and transmitted to both Houses of Congress for its review. D.C. Law 11-143 became effective on June 13, 1996.

Legislative history of Law 11-220. — Law 11-220, the "District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-846. The Bill was adopted on first and second readings on September 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-434 and transmitted to both Houses of Congress for its review. D.C. Law 11-220 became effective on April 9, 1997.

Legislative history of Law 11-223. — Law 11-223, the "District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-847, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 1, 1996,

and November 7, 1996, respectively. Signed by the Mayor on November 25, 1996, it was assigned Act No. 11-442 and transmitted to both Houses of Congress for its review. D.C. Law 11-223 became effective on April 9, 1997.

Application of Law 11-223. — Section 4 of D.C. Law 11-223 provided that the act shall apply on the effective date of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Amendment Act of 1996.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

See note to § 47-813.

Special tax requirement. — D.C. Law 5-115 requires the Mayor to certify to the Council the amount required to pay the principal of, and interest on, general obligation bonds coming due for any reason during that real property tax year.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

Definitions applicable. — The definitions in § 47-803 apply to this section.

§ 47-816. Submission on exempt property.

At the time the Mayor submits to the Council the proposed real property tax rate or rates under § 47-815, he shall also submit the following:

(1) The total aggregate assessed value of real property exempt from the real property tax levied in the District for the current fiscal year by major class or type of exempt status and the tax that would have been paid during such fiscal year had such property not been exempt; and

(2) The estimated total aggregate assessed value of real property exempt from the real property tax levied in the District by major class or type of exempt status and the tax that would be paid during the fiscal year under the real property tax rate or rates proposed by the Mayor pursuant to § 47-815. (1973 Ed., § 47-634; Sept. 3, 1974, 88 Stat. 1053, Pub. L. 93-407, title IV, § 414; June 15, 1976, D.C. Law 1-70, title III, § 305, 23 DCR 540; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-70. — See note to § 47-811.

§ 47-817. Comparison of rates and burdens.

In establishing a real property tax rate or rates, the Council shall make a comparison of tax rates and burdens applicable to residential and nonresidential property in the District with those such rates applicable to such property in jurisdictions in the vicinity of the District. The comparison shall include

other major taxes in addition to the tax on real property. Without in any way limiting the authority of the Council, it is the intention of Congress, that tax burdens in the District be reasonably comparable to those in the surrounding jurisdictions of the Washington metropolitan area. (1973 Ed., § 47-635; Sept. 3, 1974, 88 Stat. 1053, Pub. L. 93-407, title IV, § 415; June 15, 1976, D.C. Law 1-70, title III, § 305, 23 DCR 540; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-818.1.

Legislative history of Law 1-70. — See note to § 47-811.

Adoption of enumerated reports as comparison. — Section 3 of D.C. Law 6-153 provided that the Council of the District of Columbia ("Council") adopts the following reports as the Council's comparison of tax rates and burdens applicable to residential and nonresidential real property in the District of Columbia

with the rates on property in jurisdictions in the vicinity of the District and as the Council's comparison of other major taxes:

(1) "Tax Rates and Tax Burdens in the District of Columbia: A Nationwide Comparison" (Government of the District of Columbia, June 1986); and

(2) "Comparison of Tax Rates and Burdens in the Washington Metropolitan Area" (Government of the District of Columbia, June 1986).

§ 47-818. Adoption of enumerated reports as comparison.

Repealed. Oct. 1, 1987, D.C. Law 7-28, § 4, 34 DCR 5094.

Legislative history of Law 7-28. — See note to § 47-818.1

§ 47-818.1. Adoption of enumerated reports as comparison.

Pursuant to § 47-817, the Council of the District of Columbia ("Council") adopts the following reports as the Council's comparison of tax rates and burdens applicable to residential and nonresidential real property in the District of Columbia ("District") with the rates on property in jurisdictions in the vicinity of the District and as the Council's comparison of other major taxes:

(1) "Tax Rates and Tax Burdens in the District of Columbia: A Nationwide Comparison" (Government of the District of Columbia, June 1996); and

(2) "A Comparison of Tax Rates and Burdens in the Washington Metropolitan Area" (Government of the District of Columbia, June 1996). (Sept. 3, 1974, Pub. L. 93-407, title IV, § 415a, as added Oct. 1, 1987, D.C. Law 7-28, § 3, 34 DCR 5094; Sept. 29, 1988, D.C. Law 7-161, § 2(c), 35 DCR 5730; Mar. 16, 1989, D.C. Law 7-183, § 2(c), 35 DCR 7733; Oct. 19, 1989, D.C. Law 8-46, § 2(d), 36 DCR 5783; Sept. 27, 1990, D.C. Law 8-172, § 2(e), 37 DCR 4844; Mar. 7, 1992, D.C. Law 9-62, § 2(d), 38 DCR 7291; Oct. 7, 1992, D.C. Law 9-177, § 4, 39 DCR 5868; Jan. 26, 1994, D.C. Law 10-66, § 4, 40 DCR 7358; May 16, 1995, D.C. Law 10-255, § 40, 41 DCR 5193; Feb. 10, 1996, D.C. Law 11-86, § 3, 42 DCR 6798; Mar. 5, 1996, D.C. Law 11-98, § 1302, 43 DCR 5; Apr. 9, 1997, D.C. Law 11-217, § 3, 43 DCR 6076; Apr. 9, 1997, D.C. Law 11-222, § 3, 44 DCR 108; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 10-255 made a minor capitalization change in the section designation in the original act.

D.C. Law 11-98 substituted “1995” for “1993” in (1) and (2).

D.C. Law 11-222 rewrote the section.

Temporary amendment of section. — D.C. Law 11-86 substituted “1995” for “1993” in (1) and (2).

Section 6(b) of D.C. Law 11-86 provided that the act shall expire after 225 days of its having taken effect.

Section 3 of D.C. Law 11-217 rewrote the section.

Section 4(b) of D.C. Law 11-217 provided that the act shall expire after 225 days of its having taken effect or upon the effective date of the Real Property Tax Rates for Tax Year 1997 Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 3 of the Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, October 26, 1995, 42 DCR 6054), § 3 of the Real Property Tax Rates for Tax Year 1996 Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-183, January 22, 1996, 43 DCR 376), and § 3 of the Real Property Tax Rates for Tax Year 1997 Emergency Amendment Act of 1996 (D.C. Act 11-403, October 24, 1996, 43 DCR 5808), see § 2 of the Real Property Tax Rates for Tax Year 1997 Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-12, March 3, 1997, 44 DCR 1744).

For temporary amendment of section, see § 1302 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

Legislative history of Law 7-28. — Law 7-28, the “Real Property Tax Rates for Tax Year 1988 Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-262, which was referred to the Committee on Finance and

Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-50 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-161. — See note to § 47-812.

Legislative history of Law 7-183. — See note to § 47-812.

Legislative history of Law 8-46. — See note to § 47-811.

Legislative history of Law 8-172. — See note to § 47-812.

Legislative history of Law 9-62. — See note to § 47-812.

Legislative history of Law 9-177. — See note to § 47-812.

Legislative history of Law 10-66. — See note to § 47-812.

Legislative history of Law 10-255. — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. Law 10-255 became effective May 16, 1995.

Legislative history of Law 11-86. — See note to § 47-812.

Legislative history of Law 11-98. — See note to § 47-812.

Legislative history of Law 11-217. — See note to § 47-812.

Legislative history of Law 11-222. — See note to § 47-812.

Application of Law 11-222. — Section 5 of D.C. Law 11-222 provided that the act shall apply on the effective date of the Real Property Tax Rates for Tax Year 1997 Emergency Amendment Act of 1996.

§ 47-819. Compilation and publication of comparisons.

The Mayor shall, by June 30th of each year, compile and publish information regarding the relative amount of tax for all major taxes in the District compared with those in surrounding jurisdictions in the Washington metropolitan area and with those in other cities. The information shall include the rate or rates of the property tax levied on residential and nonresidential property, and the effect of major taxes levied on families of different income levels and on businesses. (1973 Ed., § 47-636; Sept. 3, 1974, 88 Stat. 1053, Pub. L. 93-407, title IV, § 416; June 15, 1976, D.C. Law 1-70, title III, § 305, 23 DCR 540; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-70. — See note to § 47-811.

§ 47-820. Assessments — Assessment roll; frequency of assessments; regulations and orders.

(a) The assessed value of all real property shall be listed on the assessment roll for real property taxation purposes annually as provided in §§ 47-820 to 47-828. The assessed value for all real property shall be the estimated market value of such property as of January 1st of the year preceding the tax year, as determined by the Mayor. In determining the estimated market value for various kinds of real property, the Mayor may do so manually or through the use of an automated system or systems such as the Computer-Assisted Mass Appraisal System. The Mayor shall take into account any factor which might have a bearing on the market value of the real property including, but not limited to, sales information on similar types of real property, mortgage, or other financial considerations, reproduction cost less accrued depreciation because of age, condition, and other factors, income-earning potential (if any), zoning, and government-imposed restrictions. Assessments shall be based upon the sources of information available to the Mayor which may include actual view.

(a-1) Notwithstanding subsection (a) of this section, the real property tax year 1998 assessed value of all real property, subject to appeal pursuant to § 47-825.1, shall be the real property tax year 1997 assessed value; provided, that for the purposes of appeal, the valuation date for real property tax year 1998 real property assessments shall be January 1, 1997. For purposes of determining the real property tax year 1998 assessment, the 1997 assessment with the latest date shall be the final 1997 assessment by the Mayor unless the assessment was otherwise revised by the Board of Real Property Assessments and Appeals or the Superior Court of the District of Columbia. In the case of a revision, the 1997 assessment shall be the assessment as determined by the Board of Real Property Assessments and Appeals or the Superior Court.

(a-2) Subsection (a-1) of this section shall not affect the authority of the Mayor pursuant to § 47-829, to conduct a supplemental assessment of any property located in the District and shall not affect the right of a real property owner pursuant to § 47-830, to appeal from the supplemental assessment to the Board of Real Property Assessments and Appeals.

(b) All real property shall be assessed no less frequently than once every 2 years, and as soon as practicable such assessment shall be made annually. The Council may authorize and direct assessments to be made annually for some or all classes of real property, except that for fiscal year 1978, and for each fiscal year thereafter, all real property shall be assessed on an annual basis.

(c) The Council may adopt regulations concerning the assessment and reassessment of real property and matters relating thereto which shall be consistent with the provisions of this chapter and other applicable provisions of law.

(d) The Council may adopt regulations regarding information to be furnished the Mayor by owners of real property. Such regulations shall provide, under penalty of law, that all such information with respect to income derived from investment on income-producing real property shall be handled in the

same confidential manner as income tax returns and supporting data required to be submitted to the government of the District of Columbia under laws applicable in the District.

(e) The Commissioner shall submit to the Council, within 45 days after September 3, 1974, proposed regulations to be adopted by the Council pursuant to subsection (c) of this section.

(f) Consistent with the provisions of this chapter and regulations of the Council, the Mayor shall promulgate necessary regulations and administrative orders. If the Council shall not have adopted regulations concerning assessment pursuant to subsection (c) of this section within 90 days after September 3, 1974, the Mayor shall promulgate such regulations. (1973 Ed., § 47-641; Sept. 3, 1974, 88 Stat. 1053, Pub. L. 93-407, title IV, § 421; Jan. 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 6(c), (d); June 14, 1994, D.C. Law 10-127, § 5(c), 41 DCR 2050; Apr. 9, 1997, D.C. Law 11-220, § 2(b), 43 DCR 6181; Apr. 9, 1997, D.C. Law 11-223, § 2(b), 44 DCR 111; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-821, 47-829, and 47-850.

Effect of amendments. — D.C. Law 11-223 inserted (a-1) and (a-2).

Temporary amendment of section. — Section 2 of D.C. Law 11-220 inserted (a-1) and (a-2).

Section 5(b) of D.C. Law 11-220 provided that the act shall expire after 225 days of its having taken effect or upon the effective date of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Year 1998 Amendment Act of 1996, whichever occurs first.

Section 101 of D.C. Law 11-226 amended (b) to read as follows:

“(b) All property shall be assessed no less frequently than once every two years. The Council may authorize and direct assessments to be made annually for some or all classes of real property, except that for fiscal year 1978, and for each fiscal year thereafter, all real property shall be assessed on an annual basis.”

Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 102 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 101 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 101 of the Fiscal Year 1997

Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

Section 1001 of D.C. Act 12-2 provides for application of the act.

For temporary amendment of section, see § 2(b) of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Emergency Amendment Act of 1996 (D.C. Act 11-407, October 28, 1996, 43 DCR 6329), and § 2(a) of the District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-9, March 3, 1997, 44 DCR 1630).

Section 3 of D.C. Act 11-407 provides for application of the act.

Legislative history of Law 10-127. — See note to § 47-812.

Legislative history of Law 11-220. — See note to § 47-815.

Legislative history of Law 11-223. — See note to § 47-815.

Legislative history of Law 11-226. — Law 11-226, the “Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective on April 9, 1997.

Congressional purpose of chapter was to revise the tax law so as to achieve, among other objectives, the comparability of tax effort between the District of Columbia and cities of comparable size. *District of Columbia v. Catholic Univ. of Am.*, App. D.C., 397 A.2d 915 (1979).

"Take into account" construed. — The statutory requirement that appraisers "take into account" evidence relating to each approach means they may ultimately rely on only one of the three, as long as they consider them all and reject the other two for legitimate reasons. In carrying out this responsibility, the District assessors need not work through all three methods to completion before choosing one, but they must consider all three and have a reasoned basis for picking one over the other two. *Safeway Stores, Inc. v. District of Columbia*, App. D.C., 525 A.2d 207 (1987).

Market value determination. — The three generally accepted approaches for determining market value are the replacement cost approach, the comparable sales approach, and the income approach. While an appraiser must consider all three of these approaches, the appraiser may, in the exercise of discretion, ultimately rely on one method in determining a property's market value. *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992).

Cost replacement method. — Cost replacement approach to value should not be applied to the taxation of the land and improvements that constitute new office buildings. *Square 345 Assoc. Partnership v. District of Columbia*, 123 WLR 1697 (Super. Ct. 1995).

Court may rely on value of mortgage in assessing value of real property. *Rock Creek Plaza-Woodner Ltd. Partnership v. District of Columbia*, App. D.C., 466 A.2d 857 (1983).

Present estimated market value includes estimate of future income potential. *District of Columbia v. Washington Sheraton Corp.*, App. D.C., 499 A.2d 109 (1985).

A "stabilized annual net income" figure must reflect an appraiser's estimation of a property's yearly income earning potential because the income approach is based on the fundamental notion that the market value of income-producing property reflects the present worth of a future income stream. *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992).

While appraisers often calculate a property's income earning potential by reference to the trend of actual net income figures over the past several years, this method is not the only acceptable one; this section authorizes consideration of "any factors" that may bear on value and the regulations require an appraiser to use the most current, accurate and conclusive information in assessments. *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992).

A property's "income earning potential" should not be misinterpreted as the "income available to the property as of the assessment date." *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992).

The application of the shorthand method is inappropriate where actual net income was based on an atypical year in which the building's operations were significantly reduced on account of renovations. Under such circumstances, market value would be understated. *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992).

An absolute Department rule against using the income approach for assessing certain properties would violate the statutory injunction that assessors "take into account" expected future income for each property assessed. *Safeway Stores, Inc. v. District of Columbia*, App. D.C., 525 A.2d 207 (1987).

Departmental presumption against recognizing encumbrances. — The Department of Finance and Revenue would be justified in adopting at least a presumption against recognizing "encumbrances" in valuing leaseback property, especially where the lessee also pays the property tax. *Safeway Stores, Inc. v. District of Columbia*, App. D.C., 525 A.2d 207 (1987).

Effect of entitlement to historic property tax relief. — The fact that a piece of property may not be entitled to historic property tax relief under § 47-842 does not mean that the pendency of a historic district application before the Historic Preservation Review Board (or the Joint Committee on Landmarks), a factor "which might have a bearing on the market value of the real property" (subsection (a) of this section), should not be taken into account in determining the value of that property. *1827 M St., Inc. v. District of Columbia*, App. D.C., 537 A.2d 1078 (1988).

Failure to consider factor. — Although subsection (a) of this section provides that the assessor take into account any factor which might have a bearing upon the market value of the real property, the trial court found, and appellants presented, no evidence of the magnitude of the ground lease's possible impact. If a factor is not shown to have a bearing upon the market value, then the assessor commits no misdeed in failing to consider it. *Wolf v. District of Columbia*, App. D.C., 609 A.2d 672 (1992).

Meaning of "available" information. — Filing of an application with the Historic Preservation Review Board, an executive branch agency, makes any information in that application "available" under subsection (a) of this section for tax assessment purposes. *1827 M St., Inc. v. District of Columbia*, App. D.C., 537 A.2d 1078 (1988).

Allocation of value between land and improvements. — Taxpayers are entitled to

refund where assessment of "real property" is excessive, not where allocation of value between land and improvements is erroneous. *Washington Post Co. v. District of Columbia*, App. D.C., 596 A.2d 517 (1991).

Burden of proof. — Defendants were entitled to introduce evidence regarding the financing, lease terms, and other characteristics of the buildings used in the District's comparable sales analysis, and to attempt to prove that there was something unusual that affected the reported sales prices in a way that caused them not to reflect normal sales prices for buildings comparable to the one under assessment. *Wolf v. District of Columbia*, App. D.C., 597 A.2d 1303 (1991).

Valuation methods may not exclude factors which bear on market value of property. — The fact that the Director of Finance and Revenue may use any of the 3 recognized methods of valuation does not mean that he may refuse to consider a factor which might have a bearing on the market value of the property; whatever method he uses, he must always take such factors into account in his calculations. *1827 M St., Inc. v. District of Columbia*, App. D.C., 537 A.2d 1078 (1988).

Effect of pending application to include property in historic district must be taken into account by the tax assessor because it is a

"factor which might have a bearing on the market value of the real property," but prospective filing of the application need not be taken into account. *1827 M St., Inc. v. District of Columbia*, App. D.C., 537 A.2d 1078 (1988).

Highest and best use of commercial property. — For commercially-zoned property, the "highest and best use" is typically commercial use. *District of Columbia v. Beatley*, App. D.C., 665 A.2d 204 (1995).

The fact that a property manager did not have a commercial certificate of occupancy was not controlling; the "highest and best use" to which the property could be put, and indeed was being put, was commercial use. *District of Columbia v. Beatley*, App. D.C., 665 A.2d 204 (1995).

Cited in *Boddie v. Robinson*, App. D.C., 430 A.2d 519 (1981); *Washington Sheraton v. District of Columbia*, 111 WLR 1053 (Super. Ct. 1983); *1111 19th St. Assocs. v. District of Columbia*, 112 WLR 1317 (Super. Ct. 1984); *George Wash. Univ. v. District of Columbia*, App. D.C., 563 A.2d 759 (1989); *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990); *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992); *Hessey v. Burden*, App. D.C., 615 A.2d 562 (1992); *National Press Bldg. Corp. v. District of Columbia*, 123 WLR 2089 (Super. Ct. 1995).

§ 47-820.1. Same — Improved residential real property owned by cooperative housing association; reports by association; Mayor to issue rules.

(a) Except as otherwise provided by subsection (b) of this section, the assessed value of improved residential real property owned by a cooperative housing association, for the tax year beginning July 1, 1990, and for each subsequent tax year, shall be:

(1)(A) The aggregate estimated market value of the proprietary leases, stock, or other interests in the cooperative housing association as of January 1 preceding the date of assessment; or

(B) If the Mayor lacks sufficient information upon which to arrive at the aggregate estimated market value of the proprietary leases, stock, or other cooperative interests in the real property, then an amount equal to the estimated market value of the real property assessed as if it were a condominium determined by use of the comparable sales approach, multiplied by 70%;

(2) Minus the value of all non-real property assets owned by the cooperative housing association; and

(3) Multiplied by 65%.

(b) The assessed value of any improved residential real property owned by a cooperative housing association determined pursuant to subsection (a) of this section may be adjusted to take into account any or all of the following factors, as appropriate and to the extent the factors were not taken into account in

determining the assessed value of the real property pursuant to subsection (a) of this section:

(1) Substantive defects in the property, especially as they affect the common elements, which have not been repaired or which may not be economically correctable;

(2) The existence of bona fide lifetime or long-term leases to elderly or low income tenants;

(3) Any other unusual factor including, but not limited to, facts showing that the assumed 1-year sell-out period is an unreasonably low estimate; and

(4) Special factors related to limited equity cooperatives.

(c) The adjustment required by subsection (a)(3) of this section is based on the following factors common to all sales of improved residential real property owned by cooperative housing associations and uses 1 year as the period of time necessary for the purchaser of the real property to sell out the proprietary leases, stock, or other cooperative interests in the real property:

(1) A discount of the ultimate receipts to present value;

(2) Interest expenses during the 1-year sell-out period;

(3) Taxes during the 1-year sell-out period;

(4) Other operating expenses during the 1-year sell-out period including carrying charges, maintenance, and utilities;

(5) Marketing expenses;

(6) Other costs incurred in connection with acquisition of the real property and the reselling of the proprietary leases, stock, or other cooperative interests in the real property including financing points, project appraisal fees, surveys, and legal costs;

(7) Profit; and

(8) No further adjustment for any of these factors shall be allowed except as provided in subsection (b)(3) of this section.

(d)(1) The Mayor may require a cooperative housing association to make a one-time submission of, and to provide an annual update to report any changes to, the following information in regard to real property owned by the cooperative housing association:

(A) The type of cooperative;

(B) The unit mix in the cooperative;

(C) The number of balconies or terraces;

(D) The total number of parking spaces, including whether they are interior or exterior;

(E) For each unit in the cooperative:

(i) The number of shares or percentage interest attributable to the unit;

(ii) The floor location;

(iii) The unit exposure;

(iv) The square footage, if known;

(v) The number of rooms, excluding kitchens and bathrooms;

(vi) The number of bathrooms;

(vii) Any parking space, whether interior or exterior, and whether it is included in the purchase price; and

(viii) The most recent date on which the shares attributable to the unit transferred;

(F) The square footage of the common areas, if known;

(G) In regard to any existing cooperative blanket mortgage:

(i) The original amount of the blanket mortgage;

(ii) The interest rate; and

(iii) The maturity date; and

(H) The total number of shares or percentage interest purchased and held by the cooperative housing association.

(2) If the cooperative housing association fails to submit the information within the time and in the form prescribed, there shall be added to the real property tax levied upon the property in question, for the next ensuing tax year, the amount of 10% of the tax, except that when the information is provided after the time prescribed and it is shown that the failure to provide it was due to reasonable cause, no addition shall be made to the tax.

(3) All information submitted by a cooperative housing association owner to the Mayor pursuant to this subsection shall be accorded the same confidentiality as that applied to District of Columbia income tax returns under § 47-1805.4, and any violation of confidentiality shall be punishable as provided in § 47-1805.4(e).

(e) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this section. The proposed rules shall be submitted to the Council for approval, in whole or in part, by resolution. (Sept. 3, 1974, Pub. L. 93-407, title IV, § 421a, as added Mar. 16, 1989, D.C. Law 7-205, § 2(a), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-821.

Temporary addition of section. — Section 2 of D.C. Law 11-207 added a § 47-820.2 to read as follows:

“§ 47-820.2.

“For purposes of assessing the value of Class 1 and Class 2 real property pursuant to the District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code § 47-801 *et seq.*) (“Real Property Tax Act”), the following rules shall apply for tax year 1997:

“(1) The period for notice of real property assessments required to be sent to the owners of Class 1 and Class 2 real property, pursuant to section 425 (D.C. Code § 47-824), is extended to July 1, 1996.

“(2) The time for filing an appeal with the Board of Real Property Assessments and Appeals for the District of Columbia, pursuant to section 426a(f)(1) (D.C. Code § 47-825.1(f)(1)), is extended to September 30, 1996.

“(3) The period for the Board to mail a copy of its decision to the aggrieved taxpayer, as required by section 426a(d)(4) (D.C. Code § 47-825.1(d)(4)), is extended to October 30, 1996.

“(4) The time for the Board to present a revised assessment roll, pursuant to section 426a(h) (D.C. Code § 47-825.1(h)), is extended to November 15, 1996.

“(5) Notwithstanding the provisions of section 426a(j) (D.C. Code § 47-825.1(j)), no appeal to the Board shall be required before the taxpayer may appeal to the Superior Court of the District of Columbia when written notice of the real property assessment, equalization, or valuation was not given to the taxpayer by July 1, 1996.

“(6) If an owner of Class 1 or Class 2 real property receives more than one assessment, the assessment with the latest date shall be the final assessment for purposes of appeal. If the taxpayer does not appeal, the assessment with the latest date shall be the final assessment for tax year 1997.

“(7) Notice of appeal rights shall be published in the *District of Columbia Register* and in at least 1 District of Columbia newspaper of general circulation.”

Section 5(b) of D.C. Law 11-207 provides that the act shall expire after 225 days of its having taken effect or on the effective date of the Real Property Tax Reassessment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 103 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

Section 1001 of D.C. Act 11-302 provides for application of the act.

For temporary addition of § 47-820.2, see § 2 of the Real Property Tax Reassessment Emergency Act of 1996 (D.C. Act 11-308, August 1, 1996, 43 DCR 4211), and § 2 of the Real Property Tax Reassessment Congressional Review Emergency Act of 1996 (D.C. Act 11-418, October 28, 1996, 43 DCR 6085).

For temporary addition of § 47-820.2, see § 2 of the Real Property Tax Reassessment Congressional Adjournment Emergency Act of 1997 (D.C. Act 12-11, March 3, 1997, 44 DCR 1741).

Legislative history of Law 7-205. — Law 7-205, the “Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1988,” was introduced in Council and assigned Bill No. 7-548, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-276 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-207. — Law 11-207, the “Real Property Tax Reassessment

Temporary Act of 1996,” was introduced in Council and assigned Bill No. 11-768, which was retained by Council. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 6, 1996, it was assigned Act No. 11-380 and transmitted to both Houses of Congress for its review. D.C. Law 11-207 became effective on April 9, 1994.

Approval of proposed rules to implement provisions of Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Amendment Act of 1988. — Pursuant to Resolution 8-80, the “Cooperative Housing Assessment Procedure Rulemaking Approval Resolution of 1989,” effective July 11, 1989, the Council approved the proposed rules to implement provisions of the Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Amendment Act of 1988 regarding the assessment of real property owned by cooperative housing associations.

Delegation of Authority Pursuant to D.C. Law 7-205 “Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1983 Amendment Act of 1988.” — See Mayor’s Order 89-136, June 12, 1989.

§ 47-821. Same — General duties of Mayor; appointment of assessors; submission of information by property owners.

(a) The Mayor shall assess all real property, identifying separately the value of land and improvements thereon, and administer and collect the real property tax within the District. The Mayor shall also notify owners of real property of assessments and of appeal procedures. In addition, he shall maintain adequate records relating to the administration of the real property tax in the District, and provide appropriate public information concerning such tax.

(b) The Mayor shall appoint assessors competent to determine values of real property to carry out the provisions of §§ 47-820 to 47-828 and other relevant portions of this chapter. Each person so appointed shall take and subscribe an oath to diligently, faithfully, and impartially assess all real property according to applicable law and regulations and otherwise perform the duties of office.

(c) The Mayor shall assure that information regarding the characteristics of real property, sales and exchanges of all such property, building permits, land use plans, and any other information pertinent to the assessment process shall be made available to the assessors on a timely basis.

(d)(1) The Mayor may require an owner of real property to submit such information relating to the transfers of ownership, construction or reproduc-

tion costs, and income or economic benefits derived from such property as in the Mayor's judgment will assist in the determination of the estimated market value required under this title. If an owner of real property in the District of Columbia fails to submit such information within the time and in the form prescribed, there shall be added to the real property tax levied upon the property in question for the next ensuing tax year the amount of 10% of said tax; provided, that when such information is provided after said time and it is shown that the failure to provide it was due to reasonable cause, no such addition shall be made to the tax.

(2) All information submitted by a property owner to the Mayor regarding transfers of ownership, construction or reproduction costs, and income or economic benefits derived from real property in the District of Columbia shall be accorded the same confidentiality as that applied to District of Columbia income tax returns under § 47-1805.4 and any violation of such confidentiality shall be punishable as provided in § 47-1805.4(e). (1973 Ed., § 47-642; Sept. 3, 1974, 88 Stat. 1054, Pub. L. 93-407, title IV, § 422; Jan. 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 6(e); Feb. 28, 1978, D.C. Law 2-45, § 5, 24 DCR 3614; June 22, 1983, D.C. Law 5-14, § 603, 30 DCR 2632; Sept. 9, 1989, D.C. Law 8-20, § 3, 36 DCR 4564; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-825.1.

Legislative history of Law 2-45. — See note to § 47-849.

Legislative history of Law 5-14. — See note to § 47-815.

Legislative history of Law 8-20. — Law 8-20, the "District of Columbia Recordation of Economic Interests in Real Property Tax Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-169, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 16, 1989 and May 30, 1989, respectively. Signed by the Mayor on June 14, 1989, it was assigned Act No. 8-42 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

Allocation of value between land and

improvements. — Taxpayers are entitled to refund where assessment of "real property" is excessive, not where allocation of value between land and improvements is erroneous. *Washington Post Co. v. District of Columbia*, App. D.C., 596 A.2d 517 (1991).

Assessment by formula. — Where the tax assessor assessed appellants' property by formula — taking into account the property's site and corner location and its square footage — it was of no consequence, unless appellants could prove either that the basis of the formula was unlawful or that the assessor's computation of the formula was inaccurate. *Wolf v. District of Columbia*, App. D.C., 609 A.2d 672 (1992).

Cited in 1111 19th St. Assocs. v. District of Columbia, 112 WLR 1317 (Super. Ct. 1984); 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987); *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990); *Hessey v. Burden*, App. D.C., 615 A.2d 562 (1992); *National Press Bldg. Corp. v. District of Columbia*, 123 WLR 2089 (Super. Ct. 1995).

§ 47-822. Same — Person in whose name assessment made; address and number to be used.

(a) All real property, except as hereinafter provided, shall be assessed in the name of the owner, or trustee or trustees of the owner thereof. All undivided real property of a deceased person may be assessed in the name of such deceased person until such undivided real property is divided according to law, or has otherwise passed into the possession of some other person; and all real

property, the ownership of which is unknown, shall be assessed as owner unknown.

(b) All real property, whether taxable or not, shall be assessed according to the address and the number of the squares and lots thereof, or part of lots, and upon the number of the square or superficial feet in each square or lot or part of a lot. (1973 Ed., § 47-643; Sept. 3, 1974, 88 Stat. 1054, Pub. L. 93-407, title IV, § 423; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-821.

No obligation to assess transfers by will in name of new owner. — This section does not obligate the District of Columbia Department of Finance and Revenue to record trans-

fers of title made by will and process all subsequent assessments in the name of the new owner, nor mail its tax assessments to him. *Watson v. Scheve*, App. D.C., 424 A.2d 1089 (1980).

§ 47-823. Same — Preliminary roll; public inspections and copying of material; sales ratio studies; listing of assessed values.

(a)(1) The Mayor shall, on or before February 15 of each year, compile in tabular form and place in a book, known as the preliminary assessment roll, the name of the owner, address, lot and square, amount, description, and value, as of January 1 of that year, of the land and improvements of all real property whether such property is taxable or exempt.

(2) Such roll shall also include the total aggregate preliminary assessed value of all taxable real property listing the values of such properties by class as set forth in § 47-813(c-1), (c-2), and (c-3).

(3) The Mayor shall transmit to the Council, no later than May 15 of each fiscal year, a mid-year financial report. The report shall contain:

(A) Schedules which reflect actual obligations for the general fund object classes of the government for the first 6 months and a forecast of full-year obligations compared against the most recent Congressionally approved budget;

(B) A comparison of the most recent Congressionally approved budget against a mid-year forecast for the full fiscal year by appropriations title and agency; and

(C) A schedule of revenue estimates for the full fiscal year comparing the current approved revenue estimates to revenue estimates revised as of the end of the first 6 months of the fiscal year.

(b) The preliminary assessment roll, together with all maps, field books, assessment-sales ratio studies, surveys, and plats, shall be open to public inspection during normal business hours. In addition, any notes and memorandums relating to the assessment of his real property, or a statement clearly indicating the basis upon which his real property has been assessed, shall be open to inspection by the taxpayer or his designated representative during normal business hours. Provision shall be made to furnish copies of all material to any person, upon request, at the lowest charge which covers cost of making such copies.

(c) The Mayor shall undertake, publish, and otherwise publicize the results of assessment-sales ratio studies for different types of real property for the entire District and for different types of real property within each of the districts utilized in making assessments. If, for a given year, adequate sales data are lacking for particular studies, the Mayor shall so indicate.

(d) The Mayor shall, either himself or in a newspaper of general circulation, publish a listing of the assessed value of each property by address, lot, and square, and he shall also make such listing available at the main Public Library in the District and at such other points as he may determine. Such publication can be by neighborhood areas so long as maps showing the assessment areas are generally available. (1973 Ed., § 47-644; Sept. 3, 1974, 88 Stat. 1054, Pub. L. 93-407, title IV, § 424; Sept. 26, 1984, D.C. Law 5-113, § 803, 31 DCR 3974; Sept. 20, 1990, D.C. Law 8-160, § 2(c), 37 DCR 4653; Mar. 17, 1993, D.C. Law 9-241, § 2(b), 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 5(d), 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820, 47-821, and 47-824.

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-160. — See note to § 47-813.

Legislative history of Law 9-241. — See note to § 47-825.1.

Legislative history of Law 10-127. — See note to § 47-812.

Mayor authorized to issue rules. — Sec-

tion 901 of D.C. Law 5-113 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.

Time frames designed to provide opportunity for obtaining notice of preliminary assessments. — The time frames of this statutory scheme are provided to give the taxpayer an opportunity to obtain adequate notice of assessments prior to their certification. 1776 K St. Assocs. v. District of Columbia, App. D.C., 446 A.2d 1114 (1982).

Cited in 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 92 L. Ed. 2d 251 (1987); Hessey v. Burden, App. D.C., 584 A.2d 1 (1990); Washington Post Co. v. District of Columbia, App. D.C., 596 A.2d 517 (1991).

§ 47-824. Same — Notice to taxpayer; contents.

Beginning as soon as possible after January 1, but no later than March 1, each owner of real property shall be notified of the assessment of his or her property for the next real property tax year. The notice, or the statement accompanying the notice, shall include:

- (1) The address, lot, square, use, and class of the real property;
- (2) The assessed value of the land and improvements (shown separately and in total) of the property for the next real property tax year and such amounts for the current real property tax year;
- (3) The amount and percentage of change in assessed value for the next real property tax year over the current real property tax year;
- (4) An indication of the reason for such change in assessment;
- (5) A statement of appeal procedures pursuant to § 47-825.1(f);
- (6) The citation to the regulations or orders under which the property was assessed;

(7) The location of the assessment roll and sale ratio studies referred to in §§ 47-823 and 47-825.1(h) and the hours during which the information is available; and

(8) An explanation of all special benefits, incentives, limitations, or credits which relate to real property taxes as a result of this or any other act. Included in said explanation shall be an easily understood description of the Property Tax Deferral Program, the property tax credit, the homestead deduction, and the incentives for the preservation of historic properties. Each description shall include, but not be limited to, application procedures and qualifying requirements. The title of each property tax relief program shall be capitalized, underlined, and printed in bold type. (1973 Ed., § 47-645; Sept. 3, 1974, 88 Stat. 1055, Pub. L. 93-407, title IV, § 425; Oct. 13, 1978, D.C. Law 2-119, § 2, 25 DCR 1514; July 25, 1990, D.C. Law 8-146, § 2(c), 37 DCR 3707; Sept. 20, 1990, D.C. Law 8-160, § 2(d), 37 DCR 4653; Mar. 17, 1993, D.C. Law 9-241, § 2(c), 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 5(e), 41 DCR 2050; May 16, 1995, D.C. Law 10-255, § 41, 41 DCR 5193; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820, 47-821, and 47-850.

Legislative history of Law 2-119. — Law 2-119, the “Property Tax Deferral Reform Act of 1978,” was introduced in Council and assigned Bill No. 2-324, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 27, 1978 and July 11, 1978, respectively. Signed by the Mayor on August 1, 1978, it was assigned Act No. 2-249 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-146. — See note to § 47-813.

Legislative history of Law 8-160. — See note to § 47-813.

Legislative history of Law 9-241. — See note to § 47-825.1.

Legislative history of Law 10-127. — See note to § 47-812.

Legislative history of Law 10-255. — See note to § 47-818.1.

References in text. — “This or any other act”, referred to in the first sentence in (8), should be read as “the District of Columbia Real Property Tax Revision Act of 1974 or any other act.” The Real Property Tax Revision Act of 1974 is 88 Stat. 1051, Pub. L. 93-407, title IV,

which was approved September 3, 1974, and which is codified as §§ 47-504, 47-801, 47-802, 47-811 to 47-828, 47-842 to 47-848, 47-861, 47-1001, 47-1002, 47-2001, and 47-3305.

Mayor authorized to issue rules. — See note to § 47-813.

Time frames designed to give notice of assessments and explanation therefor. — The time frames of this statutory scheme are provided to give the taxpayer adequate notice of, and a detailed explanation of, assessments of his real property prior to their certification. 1776 K St. Assocs. v. District of Columbia, App. D.C., 446 A.2d 1114 (1982).

District has authority to send corrected notices of assessment. 1776 K St. Assocs. v. District of Columbia, App. D.C., 446 A.2d 1114 (1982).

Cited in Trustees of Nineteenth St. Baptist Church v. District of Columbia, App. D.C., 385 A.2d 8 (1978); 1111 19th St. Assocs. v. District of Columbia, 112 WLR 1317 (Super. Ct. 1984); 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987); Customers Parking, Inc. v. District of Columbia, App. D.C., 562 A.2d 651 (1989).

§ 47-825. Same — Board of Equalization and Review.

Repealed. Mar. 17, 1993, D.C. Law 9-241, § 2(d), 40 DCR 629.

Section references. — This section is referred to in §§ 47-820, 47-821, and 47-1009.

Cross references. — As to appeals from real property assessments, see § 47-1009.

As to the Board of Real Property Assessments and Appeals, see § 47-825.1.

Legislative history of Law 9-241. — See note to § 47-825.1.

§ 47-825.1. Board of Real Property Assessments and Appeals.

(a)(1) There is established a Board of Real Property Assessments and Appeals for the District of Columbia ("Board") to review real property assessment appeals. The makeup of the Board shall be as follows:

(A) The Board shall be comprised of 18 members, all of whom shall be residents of the District of Columbia ("District"). Six board members shall be active members of the District of Columbia Bar with real estate experience; six board members shall be either District certified general real estate appraisers or District licensed residential real estate appraisers; provided, however, that no less than four members shall be District certified general real estate appraisers; and six board members shall be certified public accountants, mortgage bankers, licensed District real estate brokers, or persons possessing significant real property experience.

(B) The Mayor shall appoint the members of the Board with the advice and consent of the Council. From time to time, the Mayor shall appoint, with the advice and consent of the Council, the chairperson of the Board from among the members meeting the qualifications of subparagraph (A) of this paragraph. The member shall serve as chairperson for a term of 2 years or until the end of the member's term, whichever occurs first.

(C) Board members shall be persons who have knowledge of the valuation of property, real estate transactions, building costs, accounting, finance, or statistics.

(D) None of the Board members may be officers of the District government.

(E) [Repealed].

(2)(A) A Board member shall be prohibited from representing any client or business interest before the Board for a period of 2 years after the Board member's termination or resignation from the Board. This prohibition shall also apply to any former member of the Board of Equalization and Review.

(B) A Board member shall be prohibited from reviewing an appeal involving real property with which the Board member has had any financial dealings in the 2-year period prior to the date of the appeal. For the purposes of this subsection, the term "financial dealings" shall include, but not be limited to, the assessment, appraisal, purchase, sale, or rental of the real property in question.

(C) In addition to any other penalty under any other law, any violation of this paragraph shall be a misdemeanor, shall be prosecuted by the Corporation Counsel, and shall be punishable by a fine up to \$5,000 for each occurrence.

(3)(A) The term of each Board member shall be 5 years.

(B) The term of office of the Board members first appointed to the Board, under the Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992, shall begin on August 1, 1993. The terms of all members of the Board of Equalization and Review shall continue uninterrupted on the Board. However, each Board chairman, including the previous

chairman of the Board of Equalization and Review, must be confirmed as Board chairman with the advice and consent of the Council, as provided in paragraph (1)(B) of this subsection.

(C) No Board member may serve more than 2 consecutive terms, or more than a total of 12 years.

(4)(A) A vacancy on the Board shall be filled in the same manner that the original appointment was made.

(B) Any person appointed to fill a vacancy shall be appointed to serve for the remainder of the term during which the vacancy arose, but shall be limited to serve no more than 1 consecutive additional term thereafter.

(C) A Board member may continue to serve after the expiration of his or her term until a successor is appointed, but for no more than 3 months.

(5) Board members shall receive compensation at a rate established by the Mayor pursuant to § 1-612.8.

(b) The Mayor shall provide such other support as is needed for the efficient operation of the Board.

(c)(1) The Board shall convene as necessary from the first Monday in January until the Mayor is presented with the assessment roll for the tax year as provided in subsection (h) of this section. The Board shall also convene as necessary after any special assessment that shall be generally applicable to a class of real property and for other business of the Board.

(2) Except as provided in subsection (d) of this section, a majority of the Board shall constitute a quorum for transacting business.

(3) Pursuant to subchapter I of Chapter 15 of Title 1, the Board shall issue rules of organization and procedure. All applicable provisions of subchapter I of Chapter 15 of Title 1 shall apply to the rules and procedures of the Board.

(4) The Board shall meet at least 4 times annually for administrative matters. All administrative meetings of the Board shall be open to the public. The Board shall publish notification of the meetings in the District of Columbia Register and shall make copies of minutes of those meetings available to the public.

(d)(1) Each appeal to the Board shall be reviewed by a 3-member panel of the Board unless the appellant agrees to a 2-member panel.

(2) No 3 Board members shall serve together on the same panel for more than 1 tax year.

(3) No Board member may review an appeal for which that member has a direct or indirect interest.

(4) Each decision of the Board concerning an appeal shall be in writing and shall contain a detailed statement of the basis for the decision. Each decision shall be signed by each Board member who participated in the hearing and deliberations and shall indicate whether a participating Board member agreed with or dissented from the decision of the panel. A copy of the decision shall be mailed to the aggrieved taxpayer on or before July 14th of the year in which the appeal is made.

(5) All meetings of the Board, including hearings of individual appeals of Class 5 property assessments, shall be open to the public, and the public shall not be excluded in any way from hearings on these individual appeals. All

information presented at Board meetings, including individual appeals of Class 5 property assessments, shall be available for public inspection.

(e) The Board chairman has the authority to bring before the Board any assessments that the Board chairman believes may have been incorrectly assessed. In addition, any taxpayer may, on behalf of the general public of the District, appeal to the Board the assessment of any real property, except Class 1 Property, Class 2 Property, or Class 3 Property, or may intervene in any appeal brought by the owner of that property.

(f)(1) On or before April 30th of each year, any owner of real property, or owner's representative, may file with the Board an appeal of the amount of the owner's assessment for the upcoming tax year on a form prescribed by the Board. The form shall state clearly that all information and evidence in support of the appeal must be filed with the appeal form and shall include a statement that the owner, or owner's representative, is entitled to view, pursuant to paragraph (3) of this subsection, any response to the appeal filed by the Mayor or Assessor. All information in support of the petition shall be submitted at the time the appeal is filed except that the petitioner shall have the right to rebut any evidence submitted by the Mayor or Assessor in response to the appeal, and except that the Board may request additional information it deems necessary.

(2) The Board shall have the authority to establish the assessed value of residential real property, without a hearing, when the Mayor and the real property owner, or owner's representative, agree upon the assessed value of the residential real property.

(3) The real property owner, or the owner's representative, is entitled to view any response by the Mayor to an appeal filed by the owner or owner's representative. The Mayor shall make the response available for viewing at a reasonable time upon the request of the real property owner or owner's representative. However, in no event shall the response be made available less than 5 days prior to the scheduled hearing.

(4) Every decision filed by the Board shall be maintained by the Board for 2 years and shall be made available for examination and photocopying at cost to any requestor. Nothing in this subsection shall affect the confidentiality of information as provided in § 47-821(d)(2).

(g)(1) Pursuant to applicable provisions of law or rules adopted by the Council, or orders of the Mayor, the Board shall attempt to assure that all real property is assessed at the estimated market value.

(2) The Board shall raise or lower the estimated market value of any real property that it finds to be more than 5% above or below the estimated market value for any assessment appealed by a taxpayer.

(h) On or before July 21st of each tax year, the Board shall present the revised assessment roll for the upcoming tax year to the Mayor. The Mayor shall make such further revisions to the assessment roll as are required under other applicable provisions of law and shall approve the assessment roll no later than the date the Mayor publishes the proposed real property tax rates pursuant to § 47-815(a). Except as otherwise provided by law, the approved assessment roll shall constitute the basis of assessment for the upcoming tax

year and until another assessment roll is made according to law. The Mayor is authorized to make an administrative or clerical correction to any assessment or to correct any real property classification only for the current or immediately forthcoming tax year.

(i) The Board shall not order an increase of the assessed value of any parcel of real property above its estimated market value or a decrease of the assessed value of any parcel of real property below its estimated market value solely on the basis of average ratio studies comparing sales and assessments, unless the studies are the primary basis for the assessment or reassessment of the concerned property in question.

(j) Except as provided in § 47-3305, within 6 months after March 30th following the calendar year in which a real property assessment, equalization, or valuation was made, any taxpayer aggrieved by a real property assessment, equalization, or valuation may appeal the real property assessment, equalization, or valuation in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304, provided that the taxpayer shall have first appealed the assessment, equalization, or valuation to the Board as provided in subsection (f) of this section. No appeal to the Board shall be required before the taxpayer may appeal to the Superior Court of the District of Columbia when written notice of the real property assessment, equalization, or valuation was not given to the taxpayer prior to March 30th.

(k) Any person aggrieved by a real property classification may appeal the classification to the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304, within 6 months after October 1st of the calendar year in which the classification is made.

(1) For the tax year beginning October 1, 1993, and each tax year thereafter, any person aggrieved by a real property classification may appeal the classification to the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304, on or before September 30th following the calendar year in which the classification is made.

(2) Any person aggrieved by a real property classification which is reflected in the September 15, 1993, payment of real property tax may appeal the classification to the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304, on or before April 1, 1994.

(l)(1) By October 1st, following the end of each tax year, the Board shall present to the Council and to the Mayor an annual report on its operations for the preceding tax year. The report shall include, but not be limited to, the following:

(A) The total number of appeals heard and decided by the Board;

(B) A breakdown of appeals decided by class of property as those classes are defined in § 47-813, stating the following for each class:

(i) The total number of assessments sustained;

(ii) The total number of assessments increased;

(iii) The total number of assessments decreased;

(iv) The percentage of the increased, decreased, and sustained assessments;

(v) The gain and loss in assessed value;

(vi) The total revenue gain to the District as a result of the increases by the tax year;

(vii) The total revenue loss to the District as a result of decreases by the tax year; and

(viii) The total net revenue impact on the District as a result of the Board's decisions;

(C) An analysis of the Board's operations for the year, including the identification of any problems and recommendations for dealing with the problems; and

(D) A listing, for each Board member, of the total number of appeals heard and decided, the number of hours worked, and the total amount of compensation paid.

(2) The District of Columbia Auditor shall perform an annual management audit on the activities of the Board for the previous appeal season and report the findings to the Council by January 1st.

(3) The Board shall establish a program during which all new Board members receive training in the various aspects of property valuation for all classes of property, as well as orientation on Board rules and regulations. (Sept. 3, 1974, Pub. L. 93-407, title IV, § 426a, as added Mar. 17, 1993, D.C. Law 9-241, § 2(e), 40 DCR 629; Aug. 6, 1993, D.C. Law 10-11, § 103, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 103, 40 DCR 5489; Mar. 23, 1994, D.C. Law 10-98, § 2, 41 DCR 531; June 14, 1994, D.C. Law 10-127, § 5(f), 41 DCR 2050; May 16, 1995, D.C. Law 10-255, § 42, 41 DCR 5193; Mar. 29, 1996, D.C. Law 11-109, § 2, 43 DCR 526; Apr. 18, 1996, D.C. Law 11-110, § 53, 43 DCR 530; Apr. 9, 1997, D.C. Law 11-194, § 2, 43 DCR 4557; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; _____, 1997, D.C. Law 11- (Act 11-458), §§ 2(a), (b), 43 DCR 6868.)

Cross references. — As to compensation for members of the Board of Real Property Assessments and Appeals, see § 1-612.8(c)(2)(E).

As to compensation of the Chairperson of the Board of Real Property Assessments and Appeals, see § 612.8(c)(2)(J).

Section references. — This section is referred to in §§ 1-1462, 47-815, 47-820, 47-821, 47-824, and 47-835.

Effect of amendments. — D.C. Law 10-255 substituted "be comprised of" for "comprise" in (a)(1)(A); validated a previously made change in (a)(1)(E); and inserted "consecutive" in (a)(4)(B).

D.C. Law 11-109, in (a)(1)(A), rewrote the second sentence and deleted the third sentence; and repealed (a)(1)(E).

D.C. Law 11-110 validated a previously made stylistic change in (d)(4).

D.C. Law 11-194 rewrote (a)(1)(A).

D.C. Law 11- (Act 11-458) rewrote (d)(5) and added last sentence to (e).

Emergency act amendments. — For temporary amendment of section, see § 2 of the District of Columbia Board of Real Property Assessments and Appeals Membership Simplification Emergency Amendment Act of 1996 (D.C. Act 11-207, February 13, 1996, 43 DCR 792).

Legislative history of Law 9-241. — Law 9-241, the "Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-199, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 5, 1993, it was assigned Act No. 9-375 and transmitted to both Houses of Congress for its review. D.C. Law 9-241 became effective on March 17, 1993.

Legislative history of Law 10-11. — See note to § 47-802.

Legislative history of Law 10-25. — See note to § 47-802.

Legislative history of Law 10-98. — Law 10-98, the “Board of Real Property Assessments and Appeals Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-475, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 1993, and January 4, 1994, respectively. Signed by the Mayor on January 25, 1994, it was assigned Act No. 10-182 and transmitted to both Houses of Congress for its review. D.C. Law 10-98 became effective on March 23, 1994.

Legislative history of Law 10-127. — See note to § 47-812.

Legislative history of Law 10-255. — See note to § 47-818.1.

Legislative history of Law 11-109. — Law 11-109, the “BRPAA Membership Simplification Act,” was introduced in Council and assigned Bill No. 11-470, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-197 and transmitted to both Houses of Congress for its review. D.C. Law 11-109 became effective on March 29, 1996.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 11-194. — Law 11-194, the “Board of Real Property Assessments and Appeals Membership Qualification Act of 1996,” was introduced in Council and assigned Bill No. 11-577, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-354 and transmitted to both Houses of Congress for its review. D.C. Law 11-194 became effective on April 9, 1997.

Legislative history of Law 11- (Act 11-458). — Law 11- (Act 11-458) was submitted to the electors of the District of Columbia as Initiative No. 51. D.C. Law 11- (Act 11-458) is projected to become law on May 22, 1997.

References in text. — The “Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992,” referred to in (a)(3)(B), is D.C. Law 9-241.

Severability of D.C. Law 11- (Act 11-458). — Section 3 of D.C. Law 11- (Act 11-458) provided that “If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.”

Mayor authorized to issue rules. — Section 7 of D.C. Law 9-241 provided that the Mayor shall issue rules necessary to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.

Cited in *Price v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 645 A.2d 594 (1994); *District of Columbia v. Casino Assocs.*, App. D.C., 684 A.2d 322 (1996).

§ 47-825.2. Public Advocate for Assessments and Taxation.

(a) There is hereby established an Office of Public Advocate for Assessments and Taxation. The Public Advocate for Assessments and Taxation shall be appointed by the Mayor, with the advice and consent of the Council. The term of appointment shall be for five years. The Public Advocate shall not perform any service or work outside of this public office and shall appoint staff and additional personnel as may be provided for in the appropriated budget for the District.

(b) The Public Advocate for Assessments and Taxation shall have the following powers and duties:

(1) To appear before or to intervene in proceedings before the Board of Real Property Assessments and Appeals, the Superior Court, and the Court of Appeals on behalf of the interest of the public and the taxpayers in general of the District, and to demand a hearing pursuant to section 426a(d) or (j), or under any other provision of law on any matter or proceeding in which the

Public Advocate may deem the public interest involved, including, but not limited to, proceedings with respect to:

(A) The valuation, assessment, or classification of any property; or

(B) The appeal of an assessment of property or the tax pertaining thereto;

(2) To make such investigations and employ such consultants or experts as the public advocate may deem necessary to the duties imposed herein;

(3) To have full access to all government records necessary in carrying out the duties imposed by this section;

(4) To advise residents and taxpayers of the District generally of their rights under tax law;

(5) To prepare and provide to the Council, the Mayor, and the public an annual report setting forth the activities of the office; and

(6) To exercise and perform such other functions and duties consistent with the purposes and provisions of this section which are deemed necessary or appropriate to protect the interest of the public of the District. (_____, 1997, D.C. Law 11- (Act 11-458), § 2(c), 43 DCR 6868.)

Effect of amendments. — Section 2(c) of D.C. Law 11- (Act 11-458) added this section.

Legislative history of Law 11- (Act 11-458). — See note to § 47-825.1.

Severability of D.C. Law 11- (Act 11-458). — Section 3 of D.C. Law 11- (Act 11-458) provided that "If any provision of this act or the

application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

§ 47-826. Same — Power to administer oaths or affirmations and summon witnesses; witness fees; examination of witnesses.

Each assessor of the District, and each assistant assessor, in the discharge of any of his duties, or the Board, may administer all necessary oaths or affirmations. The Mayor or, in his absence, his designated agent, and the Chairman of the Board, shall have power to summon the attendance of any person to be examined under oath touching such matters and things as the Mayor or the Board may deem advisable in the discharge of their duties; and any member of the Metropolitan Police force of the District of Columbia may serve subpoenas in his behalf. Such fees shall be allowed witnesses so examined, to be paid out of funds available to the Mayor, as are allowed in civil actions before the United States District Court for the District of Columbia. Any person summoned and examined as aforesaid who shall knowingly make false oath or affirmation shall be guilty of perjury, and upon conviction thereof be punished according to the laws in force for the punishment of perjury. (1973 Ed., § 47-647; Sept. 3, 1974, 88 Stat. 1056, Pub. L. 93-407, title IV, § 427; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-821.

Cross references. — As to similar provisions, see § 47-602.

References in text. — The Board, referred to in this section, is the Board of Equalization and Review.

§ 47-827. Class actions.

Within 1 year after September 3, 1974, the Superior Court of the District of Columbia shall establish a method which it deems appropriate by which class action cases regarding any matter relating to real and personal property taxes may be brought before the Superior Court. (1973 Ed., § 47-648; Sept. 3, 1974, 88 Stat. 1057, Pub. L. 93-407, title IV, § 428; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-821.

§ 47-828. Violations of assessment provisions.

Any person who shall refuse or knowingly neglect to perform any duty enjoined on him by law, or who shall consent to or connive at any evasion of the provision of the first section of the Act of March 3, 1881 (D.C. Code, § 47-211), or § 13 of the Act of August 14, 1894 (D.C. Code, § 47-602), or any other provision of this chapter shall, for each offense, be removed from office and fined not more than \$10,000, or imprisoned for no longer than 1 year, or both, in the discretion of the court. (1973 Ed., § 47-649; Sept. 3, 1974, 88 Stat. 1057, Pub. L. 93-407, title IV, § 429; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820 and 47-821.

References in text. — “The 1st section of the Act of March 3, 1881 (D.C. Code, § 47-211),” referred to in this section, appears identical

with the original. However, the citation to § 47-211 appears to be erroneous, as that section is based on § 14 of 28 Stat. 285, approved August 14, 1894, rather than the 1881 Act.

§ 47-829. Taxable real estate; new structures and additions or improvements of old structures; complaints and appeals.

(a) In addition to the annual assessment of real property made pursuant to § 47-820(b), the Mayor, pursuant to subsections (b) through (f) of this section, shall conduct a supplemental assessment of real property between January 1 and June 30, to become effective October 1, and payable March 31, and again between July 1 and December 31, to become effective April 1, and payable September 15, of each calendar year.

(b) The Mayor shall assess the estimated market value of all real property, by lot and square, that was:

(1) Erroneously omitted from the previous assessment roll or tax list since the last annual or supplemental assessment; or

(2) Not listed on the previous assessment roll or tax list since the last annual or supplemental assessment.

(c) The Mayor shall assess the estimated market value of all real property, by lot and square, that has a change in estimated market value as a result of damage or destruction of an improvement since the last annual or supplemental assessment.

(d) The Mayor shall assess the estimated market value of all real property, by lot and square, if since the last annual or supplemental assessment:

(1)(A) A new improvement has been constructed;

(B) An addition to or renovation of an existing improvement has been constructed;

(C) There is construction in progress and at least 65% of the total estimated construction has occurred; or

(D) A conversion has occurred; and

(2) There is a \$100,000 or more change in the estimated market value of the real property.

(e) The Mayor shall assess the estimated market value of all real property, by lot and square, if since the last annual or supplemental assessment:

(1)(A) A new improvement has been constructed;

(B) An addition to or renovation of an existing improvement has been constructed;

(C) There is construction in progress; or

(D) A conversion has occurred; and

(2) A certificate of occupancy for the real property has been issued.

(f) After each supplemental assessment, the Mayor shall:

(1) Revise the assessment roll and tax list to reflect the current estimated market value of real property for which a supplemental assessment was conducted; and

(2) Notify the affected real property owner in writing of any change in assessment and right of appeal, as provided in § 47-830. (Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(b); May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 26, 1939, 53 Stat. 1109, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 545, ch. 649, § 3(c); July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); 1973 Ed., § 47-710; June 22, 1983, D.C. Law 5-14, § 702, 30 DCR 2632; Mar. 6, 1991, D.C. Law 8-207, § 2(a), 37 DCR 8453; Aug. 6, 1993, D.C. Law 10-11, § 104, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 104, 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to composition and functions of Board of Real Property Assessments and Appeals, see § 47-825.1.

Section references. — This section is referred to in §§ 47-830, 47-2514, and 47-3305.

Legislative history of Law 5-14. — See note to § 47-815.

Legislative history of Law 8-207. — Law 8-207, the “Real Property Improvements and Construction Tax Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-170, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 13, 1990, and December 4, 1990, respectively. Signed by the Mayor on December 14, 1990, it was assigned Act No. 8-282 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — See note to § 47-802.

Legislative history of Law 10-25. — See note to § 47-802.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Section 4 of D.C. Law 8-207 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 60-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

Delegation of Authority Under D.C. Law 8-207, the Real Property Improvements and New Construction Tax Amendment Act of 1990. — See Mayor's Order 93-66, May 25, 1993.

Application of section is not limited to new structures or improvements to old structures. *Trustees of Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 385 A.2d 8 (1978).

Allegation regarding taxes imposed on completed building attack on entire assessment. — An allegation that taxes imposed on a building which was completed in the 2nd half of the year should have been imposed only for the 2nd half is an attack on the entire assessment. *George Hyman Constr. Co. v. District of Columbia*, App. D.C., 315 A.2d 175 (1974).

Pre-appeal complaint held unnecessary in case involving exempt property. — Where property was exempt from taxation it

could not subsequently be assessed absent compliance with the procedures prescribed by this section and a determination that the property had for some sufficient reason become subject to taxation; and where such procedures were not followed no complaint to the Board of Equalization and Review was required pursuant to former § 47-825(i) (now see § 47-825.1). *Trustees of Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 385 A.2d 8 (1978).

Cited in *Wyner v. District of Columbia*, App. D.C., 411 A.2d 59 (1980); *1111 19th St. Assocs. v. District of Columbia*, 112 WLR 1317 (Super. Ct. 1984); *District of Columbia v. Square 254 Ltd. Partnership*, App. D.C., 516 A.2d 907 (1986); *1111 19th St. Assocs. v. District of Columbia*, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987); *Customers Parking, Inc. v. District of Columbia*, App. D.C., 562 A.2d 651 (1989); *Washington Post Co. v. District of Columbia*, App. D.C., 596 A.2d 517 (1991); *District of Columbia v. Casino Assocs.*, App. D.C., 684 A.2d 322 (1996).

§ 47-830. New buildings; complaints and appeals.

(a) Any real property owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Board of Real Property Assessments and Appeals by:

(1) September 30 for a supplemental assessment conducted between January 1 and June 30; and

(2) March 31 for a supplement assessment conducted between July 1 and December 31.

(b) The Board of Real Property Assessments and Appeals shall hear an appeal of the supplemental assessment if the appeal is filed by the prescribed due date and shall make a final determination of the appeal no later than October 15 of the same calendar year for a supplemental assessment conducted between January 1 and June 30, and by April 15 of the next calendar year for a supplemental assessment conducted between July 1 and December 31.

(c)(1) Any real property owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Superior Court of the District of Columbia within 6 months after April 15 following the year in which the assessment is made, in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304 for a supplemental assessment conducted between January 1 and June 30, if:

(A) An appeal of the supplemental assessment has been filed with the Board of Real Property Assessments and Appeals by September 30; or

(B) The Mayor failed to provide notice to the affected real property owner, as required by § 47-829(f)(2), by September 1 of the year in which the supplemental assessment was conducted; and

(2) Any real property owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Superior Court of the District of Columbia within 6 months after the April 15th

following the year in which the assessment is made, in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304 for a supplemental assessment conducted between July 1 and December 31, if:

(A) An appeal of the supplemental assessment has been filed with the Board of Real Property Assessments and Appeals by March 31; or

(B) The Mayor failed to provide notice to the affected real property owner, as required by § 47-829(f)(2), by the March 1st following the year in which the supplemental assessment was conducted.

(d) For the purposes of § 47-829 and this section, the term:

(1) "Improvement" means a building or other relatively permanent structure or development located on or attached to real property.

(2) "Construction in progress" means the on-site work done in the building or the alteration of an improvement, whether a new improvement, an addition, or a renovation, including, but not limited to, the assembly and installation of components and equipment.

(3) "Conversion" means a change in use of real property or a change in the type of ownership of residential real property that results in a change of residential use. A conversion includes, but is not limited to:

(A) A change in use from a residential, commercial, office, hotel or motel, industrial, or other type of real property to a residential, commercial, office, hotel or motel, industrial or other type of real property, regardless of whether the change in use results in a reclassification of the real property; or

(B) A change in the type of ownership of residential real property that results in a change in residential use of the real property from a rental housing accommodation, a condominium, or cooperative housing association to a rental housing accommodation, a condominium, or a cooperative housing association.

(4) For the purposes of paragraph (3) of this subsection, the term "housing accommodation" has the same meaning as that term has in § 45-2503(14); and the terms "condominium" and "cooperative housing association" have the same meaning as the terms have in § 47-813(d). (Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(c); May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 26, 1939, 53 Stat. 1109, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 545, ch. 649, § 3(c); July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); 1973 Ed., § 47-711; June 22, 1983, D.C. Law 5-14, § 703, 30 DCR 2632; Mar. 6, 1991, D.C. Law 8-207, § 2(b), 37 DCR 8453; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 4(a), 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to composition and functions of Board of Real Property Assessments and Appeals, see § 47-825.1.

Section references. — This section is referred to in §§ 47-829, 47-2514, and 47-3305.

Legislative history of Law 5-14. — See note to § 47-815.

Legislative history of Law 8-207. — See note to § 47-829.

Legislative history of Law 9-241. — See note to § 47-825.1.

Legislative history of Law 10-127. — See note to § 47-812.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Section 4 of D.C. Law 8-207 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a

60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 60-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

Delegation of Authority Under D.C. Law 8-207, the Real Property Improvements and New Construction Tax Amendment Act of 1990. — See Mayor's Order 93-66, May 25, 1993.

Allegation regarding taxes imposed on completed building attack on entire assessment. — An allegation that taxes imposed

on a building which was completed in the 2nd half of the year should have been imposed only for the 2nd half is an attack on the entire assessment. *George Hyman Constr. Co. v. District of Columbia*, App. D.C., 315 A.2d 175 (1974).

Cost replacement not to be applied. — Cost replacement approach to value should not be applied to the taxation of the land and improvements that constitute new office buildings. *Square 345 Assoc. Partnership v. District of Columbia*, 123 WLR 1697 (Super. Ct. 1995).

Cited in 1111 19th St. Assocs. v. District of Columbia, 112 WLR 1317 (Super. Ct. 1984); *District of Columbia v. Square 254 Ltd. Partnership*, App. D.C., 516 A.2d 907 (1986); *District of Columbia v. Casino Assocs.*, App. D.C., 684 A.2d 322 (1996).

§ 47-831. Omitted properties; void assessments; notice and appeal.

If the Department of Finance and Revenue shall learn that any property liable to taxation has been omitted from the assessment for any previous year or years, or has been so assessed that the assessment made was void, it shall be a duty at once to reassess this property for each and every year for which it has escaped assessment and taxation, and report the same, through the Assessor, to the Collector of Taxes who shall at once proceed to collect the taxes so in arrears as other taxes are collected; provided, that no property which has escaped assessment and taxation shall be liable under this section for a period of more than 3 years prior to such assessment, except in the case of property involved in litigation. In addition to the duties of the Assessor hereinbefore provided, it shall be the duty of the Assessor upon reassessment as herein provided to notify the taxpayer by writing of the fact of such reassessment. Any person aggrieved by any reassessment made in pursuance of this section may, within 6 months after notice of said reassessment, appeal from said reassessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304. (Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(d); May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); 1973 Ed., § 47-712; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2514 and 47-3305.

Office of Assessor abolished. — See note to § 47-413.

Office of Collector of Taxes abolished. — See note to § 47-401.

"Void" assessment. — An assessment invalidated because it lacks sufficient authority is "void" within the meaning of this section. *District of Columbia v. Casino Assocs.*, App. D.C., 684 A.2d 322 (1996).

"Omitted property" construed. — Where

the government clearly omitted by mistake to assess an office building and left the appropriate box for the building assessment blank on the notification to the taxpayer, this was an error made, not a judgment reached and it was therefore within the reach of this section. *1111 19th St. Assocs. v. District of Columbia*, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987).

Land and improvements are severable elements of real property for purposes of assessment such that either, without necessarily

the other, could be deemed omitted property under this section. 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987).

Where only the taxpayer's land was assessed, and not the building, this section could be used to correct the District's inadvertent failure to initially consider the improvements in arriving at the property's assessment valuation. 1111 19th St. Assocs. v. District of Columbia, App. D.C., 521 A.2d 260, cert. denied, 484 U.S. 927, 108 S. Ct. 291, 98 L. Ed. 2d 251 (1987).

Assessment of omitted property not subject to administrative review. — An assessment of omitted property is not required to be submitted to or to be approved by the Board of Equalization and Review (now the Board of Real Property Assessments and Appeals), and is not subject to any other administrative review. Trustees of Saint Paul Methodist Episcopal Church S. v. District of Columbia, 212 F.2d 244 (D.C. Cir. 1954).

When reassessment permitted. — In ab-

sence of provision for reassessment for prior years, none can be made. Tumulty v. District of Columbia, 102 F.2d 254 (D.C. Cir. 1939).

After the original assessment had been nullified on administrative appeal, this section authorized a reassessment on the basis of information not relied on in the original assessments which demonstrated that the property was liable to taxation. District of Columbia v. Casino Assocs., App. D.C., 684 A.2d 322 (1996).

Omitted assessments for previous years validly imposed. — Where taxpayer accepted and paid an assessment which clearly reflected that tax was assessed only on value of land and not on value of improvements being constructed, omitted property assessments for improvements for previous tax years were validly imposed even though District could and should have assessed the improvements earlier. 1111 19th St. Assocs. v. District of Columbia, 112 WLR 1317 (Super. Ct. 1984).

Cited in Washington Post Co. v. District of Columbia, App. D.C., 596 A.2d 517 (1991).

§ 47-832. Subdivisions made during January, February, March, April, May, or June.

(a) Whenever a subdivision of any lot or parcel of land in the District of Columbia, or any portion of any such lot or parcel, is made during the months of July, August, September, October, November, or December, the general tax due and payable upon such lot or parcel of land for prior years and for the first half of the then current fiscal year shall then be paid, and all water main and sewer assessments and special assessments of any kind thereon shall then become due and payable, and be paid before such subdivision shall be admitted to record in the Office of the Surveyor of the District of Columbia; and the general tax thereon for the last half of the then current fiscal year shall be due and payable in the following May.

(b) Whenever such subdivision is made during the months of January, February, March, April, May, or June, the total general tax assessed against the original lot or parcel of land for prior years and for the then current fiscal year, and all water main and sewer assessments and special assessments of any kind thereon, shall become due and payable and be paid before such subdivision is admitted to record in the Office of the Surveyor of the District of Columbia.

(c) For tax year 1994 and each tax year thereafter, whenever a subdivision of any lot or parcel of land in the District of Columbia, or any portion of any such lot or parcel, is made during the months of October, November, December, January, February, or March, the general tax due and payable upon such lot or parcel of land for prior years and for the first half of the then current tax year shall be paid, and all water main and sewer assessments and special assessments of any kind assessed thereon shall become due and payable, and be paid before such subdivision shall be admitted to record in the Office of the Surveyor

of the District of Columbia; and the general tax levied thereon for the last half of the current tax year shall be due and payable in the following September.

(d) For tax year 1994 and each tax year thereafter, whenever a subdivision is made during the months of April, May, June, July, August, or September, the total general tax assessed against the original lot or parcel of land for prior years and for the current tax year, and all water main and sewer assessments and special assessments of any kind assessed thereon, shall become due and payable and be paid before such subdivision shall be admitted to record in the Office of the Surveyor of the District of Columbia. (Mar. 1, 1921, 41 Stat. 1196, ch. 95, § 2; 1973 Ed., § 47-714; Aug. 6, 1993, D.C. Law 10-11 § 105, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 105, 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-834 and 47-2514.

Legislative history of Law 10-25. — See note to § 47-802.

Legislative history of Law 10-11. — See note to § 47-802.

§ 47-833. Unsubdivided tracts.

Whenever application is made in writing to the Assessor of the District of Columbia by the owner of any tract of land in said District not subdivided into lots and of record as a subdivision in the Office of the Surveyor of said District, for the redistribution of any general or special taxes or assessments then levied or due thereon, or whenever such application is made by the owner of any parcel of such tract for such redistribution, any such general or special taxes or assessments levied or due against the entire tract of which such parcel is a part shall be redistributed so that the owner of any such parcel may pay the proportion of such entire taxes or assessments equitably chargeable thereon. (Mar. 1, 1921, 41 Stat. 1196, ch. 95, § 3; 1973 Ed., § 47-715; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-834 and 47-2514.

Office of Assessor abolished. — See note to § 47-413.

§ 47-834. Reassessment or redistribution — Subdivisions; notice and appeal; validity.

(a) Whenever application is made according to law for the reassessment or redistribution of taxes by reason of the subdivision of any tract of land in the District, the department charged with the assessment of real estate in the District is hereby authorized and directed to reassess and redistribute any general or special assessment or tax levied or due and unpaid in accordance with provisions of laws for the assessment and equalizations of valuations of real estate in the District for taxation. The Assessor shall promptly notify the owners of record of the land, the taxes of which shall be reassessed or redistributed. Notices in such case shall be served upon each lot or parcel owner if he or she be a resident of the District and his or her residence known, and if he or she be a nonresident of the District, or his or her residence unknown, such notice shall be served on his or her tenant or agent, as the case

may be, and if there be no tenant or agent known to the Mayor of the District of Columbia, then he shall give notice of such assessment by advertisement twice a week for 2 weeks in some newspaper published in said District. The service of such notice, where the owner or his tenant or agent resides in the District, shall be either personal or by leaving the same with some person of suitable age at the residence or place of business of such owner, agent, or tenant; and return of such service, stating the manner thereof, shall be made in writing and filed in the office of the Mayor. Any person aggrieved by such reassessment or redistribution may, within 6 months after notice of such reassessment or redistribution, appeal from such reassessment or redistribution in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(b) Any reassessment or redistribution made under §§ 47-832 to 47-835 shall be as valid and effectual upon the various parts of the property, in the same manner and to the same extent as if the tax or assessment so reassessed or redistributed had been laid originally thereon under the various laws appertaining thereto. No payment or failure to pay a tax or assessment upon any such part shall change or affect the liability of the other parts of such property for any tax or assessment so reassessed or redistributed. (Mar. 1, 1921, 41 Stat. 1196, ch. 95, § 4; Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(e); May 16, 1938, 52 Stat. 374, ch. 223, § 8; July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); 1973 Ed., § 47-716; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to composition and functions of Board of Real Property Assessments and Appeals, see § 47-825.1.

Section references. — This section is re-

ferred to in §§ 47-2514 and 47-3305.

Office of Assessor abolished. — See note to § 47-413.

§ 47-835. Same — Powers and duties of Department of Finance and Revenue and Assessor.

The Department of Finance and Revenue, charged with the assessment of real estate in the District of Columbia, is hereby authorized and directed to reassess or redistribute any such general or special assessment or tax levied or due and unpaid in accordance with the provisions of laws for the assessment and equalizations of the valuations of real estate in the District of Columbia for taxation, after notice to owners of record of the land to be assessed, with right of appeal within 10 days to the Board of Real Property Assessments and Appeals as prescribed in § 47-825.1; and the Assessor of said District is hereby authorized and directed to promptly reassess or redistribute any general or special assessment of any kind levied or due and unpaid, as hereinbefore provided. (Mar. 1, 1921, 41 Stat. 1196, ch. 95, § 5; 1973 Ed., § 47-717; Mar. 17, 1993, D.C. Law 9-241, § 5, 40 DCR 629; May 16, 1995, D.C. Law 10-255, § 43, 41 DC 5193; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-834 and 47-2514.

Effect of amendments. — D.C. Law 10-255 substituted "as prescribed in § 47-825.1" for "as

prescribed in § 47-825" near the end.

Legislative history of Law 9-241. — See note to § 47-825.1.

Legislative history of Law 10-255. — See note to § 47-818.1.

Office of Assessor abolished. — See note to § 47-413.

Board of Assistant Assessors abolished.

— See note to § 47-602.

Cited in *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990).

§ 47-836. Railroad companies — Washington Terminal, Philadelphia, Baltimore and Washington or Baltimore and Ohio.

The property owned or occupied by the Washington Terminal Company, or by the Philadelphia, Baltimore and Washington Railroad Company, or by the Baltimore and Ohio Railroad Company under authority of this Act, or otherwise, together with the improvements that may be put thereon, shall be subject to taxation in the District of Columbia in the same manner and to the same extent as other property in the District, and all tracks and sidings shall be taxed as real estate; provided, that no assessment, valuation, or tax shall be made, laid, or levied on the stations, terminals, and lines of railroad located, constructed, or maintained under the authority of this act, in excess of that which would or could be lawfully made, laid, or levied if said stations, terminals, and lines of railroad were located, constructed, and maintained without the use of bridges, tunnels, viaducts, retaining walls, or other structures necessary or properly employed to elevate or to depress the same as required by this Act; it being the true intent and meaning hereof that the lines of railroad and terminals hereby authorized shall be assessed and valued for the purpose of taxation and taxed on the same basis as if the same were not constructed and maintained by means of such bridges, tunnels, viaducts, retaining walls, and other structures; provided, that such portions of the terminal structure or viaduct as may be constructed and used for storage or like commercial purpose shall be subject to taxation in the same manner as other property in the District of Columbia. (Feb. 28, 1903, 32 Stat. 914, ch. 856, § 6; 1973 Ed., § 47-718; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514.

References in text. — "This Act," referred to near the beginning and twice in the first

proviso of this section, means 32 Stat. 909, ch. 856, approved February 28, 1903.

§ 47-837. Same — Baltimore and Ohio or Washington Terminal.

The property occupied by the Baltimore and Ohio Railroad Company, or by the Washington Terminal Company, under authority of this act, together with the improvements which may be put thereon, shall be subject to tax by the District of Columbia the same as other property in the District of Columbia; provided, that no assessment, valuation, or tax shall be made or levied on the railroad or terminals located, constructed, or maintained under the authority of this Act, in excess of that which would or could be lawfully made, laid, or

levied if said railroad and terminals were so located, constructed, and maintained without the use of bridges, viaducts, retaining walls, and other structures necessary or properly employed to elevate the same as required by this Act, it being the true intent and meaning hereof that the railroad and terminals hereby authorized shall be assessed and valued for purposes of taxation and taxed on the same basis as if the same were not constructed and maintained by means of such bridges, viaducts, retaining walls, and other structures. (Feb. 12, 1901, 31 Stat. 779, ch. 354, § 9; 1973 Ed., § 47-719; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514. in this section, means 31 Stat. 774, ch. 354, approved February 12, 1901.

References in text. — “This Act,” referred to near the beginning and twice in the proviso

§ 47-838. Same — Baltimore and Potomac.

The property occupied by the Baltimore and Potomac Railroad Company under authority of this section, together with the improvements which may be put thereon, shall be subject to tax by the District of Columbia the same as other property in the District of Columbia; provided, that no assessment, valuation, or tax shall be made, laid, or levied on the Baltimore and Potomac Railroad Company on account of any bridges, tunnels, elevated tracks, or subway which shall be located, constructed, or maintained under the authority of this act, and forming part of said railroad, in excess of that which would or could be lawfully made, laid, or levied if said railroad was wholly located and constructed on the surface of the ground; it being the true intent and meaning hereof that any such bridges, tunnels, elevated tracks, or subway forming a part of said railroad shall be assessed and valued for purposes of taxation and taxed on the same basis as any other equal portion of railroad situated within the said District of Columbia not constructed on, in, through, or upon any such bridges, tunnels, elevated tracks, or subway. (Feb. 12, 1901, 31 Stat. 773, ch. 353, § 14; 1973 Ed., § 47-720; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514. to in the proviso in this section, means 31 Stat. 773, ch. 353, approved February 12, 1901.

References in text. — “This Act,” referred

§ 47-839. Reassessment powers and duties of Mayor.

The Mayor of the District of Columbia is hereby authorized and directed, in all cases where general taxes or assessments for local improvements in the District of Columbia may be quashed, set aside, or declared void by the Superior Court of the District of Columbia, by reason of an imperfect or erroneous description of the lot or parcel of ground against which the same shall have been levied by reason of such tax or assessment not having been authenticated by the proper officer, or of a defective return of service of notice, or for any technical reason other than the right of the public authorities to levy the tax or make the improvement in respect of which the assessment was

levied, to reassess the lot or parcel of ground in respect of such general taxes or the improvement mentioned in such defective assessment, with power to collect the same according to existing laws relating to the collection of assessments and taxes; provided, that in cases where such taxes or assessments shall be quashed or declared void by said Court for the reasons hereinbefore stated, the reassessment herein provided for shall be made within 90 days after the judgment or decree of said Court quashing or setting aside such taxes or assessments and any amount theretofore paid upon an assessment which has been declared void shall be credited the owner upon the reassessment made under the provision of this section. (Apr. 24, 1896, 29 Stat. 98, ch. 123; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(46); 1973 Ed., § 47-721; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514.

Cited in National Trust for Historic Preser-

vation in *United States v. District of Columbia*, App. D.C., 498 A.2d 574 (1985).

§ 47-840. Valuation of federal property — Real estate included; return to Congress.

There shall be a valuation taken of all real estate belonging to the United States in the District, except the public buildings, and the grounds which have been dedicated to the public use as parks and squares, at least once in 5 years, and return thereof shall be made by the Commissioner of the District of Columbia to the President of the Senate and Speaker of the House of Representatives on the first day of the session of Congress held after such valuation shall be taken. (R.S., D.C., § 138; June 20, 1874, 18 Stat. 116, ch. 337, § 2; 1973 Ed., § 47-722; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514.

§ 47-841. Same — Secretary of Interior to designate persons and regulations.

All valuations of property belonging to the United States shall be made by such persons as the Secretary of the Interior shall appoint, and under such regulations as he shall prescribe. (R.S., D.C., § 139; 1973 Ed., § 47-723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2514.

§ 47-842. Historic property tax relief — Assessment of officially designated buildings.

For certain officially designated historic buildings in the District, the Mayor shall, in addition to assessing at full market value, assess land and improvement on the basis of current use and structures of the buildings, which latter assessment, if it is less than full market value, shall be the basis of tax liability to the District. (1973 Ed., § 47-652; Sept. 3, 1974, 88 Stat. 1058, Pub. L. 93-407, title IV, § 432; Jan. 3, 1975, 88 Stat. 2178, Pub. L. 93-635, § 15(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section construed with §§ 47-802(4) and 47-820. — This section must be read in a manner consistent with the rest of the Code, particularly §§ 47-802(4) and 47-820; the fact that a piece of property may not be entitled to historic property tax relief under this section does not mean that the pendency of a historic district application before the Historic Preservation Review Board (or the Joint Committee on Landmarks), a factor “which might have a bearing on the market value of the real property,” (§ 47-820(a)), should not be taken into

account in determining the value of that property. 1827 M St., Inc. v. District of Columbia, App. D.C., 537 A.2d 1078 (1988).

Assessment was not required to be based on current use and structure. — Where plaintiff’s property was not an “officially designated historic building,” the tax assessor was not required to base his or her assessment on its current use and structure. 1827 M St., Inc. v. District of Columbia, App. D.C., 537 A.2d 1078 (1988).

§ 47-843. Same — Eligibility.

To be eligible for historic property tax relief, real property must be a historic building designated by the Joint Committee on Landmarks of the National Capital and, in addition, must be approved by the Mayor under § 47-844. (1973 Ed., § 47-653; Sept. 3, 1974, 88 Stat. 1058, Pub. L. 93-407, title IV, § 433; Jan. 3, 1975, 88 Stat. 2178, Pub. L. 93-635, § 15(d); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-844. Same — Agreements for maintenance and use of buildings.

The Council may provide that the owners of historic buildings which have been so designated by the Joint Committee on Landmarks of the National Capital may enter into agreements with the government of the District of Columbia for periods of at least 20 years which will assure the continued maintenance of historic buildings in return for property tax relief. Such a provision shall, as a condition for tax relief, require reasonable assurance that such buildings will be used and properly maintained and such other conditions as the Council finds to be necessary to encourage the preservation of historic buildings. The Council shall also provide for the recovery of back taxes, with interest, which would have been due and payable in the absence of the exemption, if the conditions for such exemption are not fulfilled. (1973 Ed., § 47-654; Sept. 3, 1974, 88 Stat. 1058, Pub. L. 93-407, title IV, § 434; Jan. 3, 1975, 88 Stat. 2178, Pub. L. 93-635, § 15(e); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-843.

§ 47-845. Tax deferral — Amount.

(a) An eligible taxpayer may defer each year any real property tax owed in excess of 110% of his or her immediately preceding year's real property tax liability for Class 1 Property as defined in § 47-813(c)(1). To be eligible for such deferral the taxpayer must:

(1) Have owned for at least 1 year the property for which the deferral is claimed;

(2) Certify that such property is currently occupied by the taxpayer and that such property was occupied by the taxpayer for the 12 month period immediately preceding the application for deferral; and

(3) File a written application for deferral on a form provided by the Mayor. An application for real property tax deferral shall be filed with the Mayor before the last date an installment payment of the real property taxes which are to be deferred is due.

(4) [Repealed].

(5) [Repealed].

(6) [Repealed].

(7) [Repealed].

(b) If a taxpayer submits a timely application for deferral of real property taxes, the amount of real property tax owed in excess of 110% of the prior year's tax bill shall not constitute delinquent taxes nor shall the taxpayer be assessed any interest for the period said application is pending. A taxpayer shall be eligible to start deferring portions of the increased property tax liability immediately after his or her application has been approved by the Mayor. If the application for deferral is disapproved, the taxpayer shall be notified, in writing, of said disapproval and the reasons therefor and granted an additional 30 days to pay said taxes without interest.

(c) Taxes deferred under this section shall bear interest at the rate of 8% per annum.

(d) No further deferrals of real property tax shall be granted to a taxpayer when the aggregate amount of the deferred tax plus interest equals 25% of the assessed value of the property for the tax year for which the deferral is requested.

(e) Taxes deferred under this section, together with all accumulated interest, shall constitute a preferential lien upon the real property which shall be immediately payable by the seller, transferor, or conveyor whenever the real property is sold, refinanced, transferred, or conveyed in any manner, or whenever additional co-owners (other than spouse) are added to the real property; except, that whenever such real property is sold, transferred, or conveyed to the mother, father, husband, wife, children by blood or legally adopted children of the seller, transferor, or conveyor, the deferred taxes lien, if not satisfied, shall remain in full force and effect. (1973 Ed., § 47-655; Sept. 3, 1974, 88 Stat. 1058, Pub. L. 93-407, title IV, § 435; Oct. 13, 1978, D.C. Law 2-119, § 3, 25 DCR 1514; July 24, 1982, D.C. Law 4-128, § 2, 29 DCR 2401; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to sale of tax delinquent real property, see Chapter 13 of this title.

Section references. — This section is referred to in §§ 47-862 and 47-1806.6.

Legislative history of Law 2-119. — See note to § 47-824.

Legislative history of Law 4-128. — Law 4-128, the “Real Property Tax Deferral Simpli-

fication Act of 1982,” was introduced in Council and assigned Bill No. 4-342, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982 and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-193 and transmitted to both Houses of Congress for its review.

§ 47-845.1. Tax deferral — Bureau of National Affairs.

(a) Notwithstanding any other law or regulation, the Mayor may enter into an agreement with The Bureau of National Affairs, Inc. (“BNA”), and BNA Washington, Inc. (“BNAW”), to defer, up to 10 years, any real property tax liability on property located on Lot 109 and Lot 883 of Square 24, popularly known as 1227-1231 25th Street, N.W., Washington, D.C., or any property in the District of Columbia acquired for headquarters and principal operations as an addition to, or substitute for, the 25th Street address during the term of any deferral agreement.

(b) The Mayor is authorized to enter into a written agreement (“Agreement”) with BNA and BNAW on such terms and conditions as the Mayor deems to be in the best interest of the District, the purpose of which is to provide BNA and BNAW with incentives to continue their current occupancy and usage of the real property specified in subsection (a) of this section, or any similar District property substituted therefor, for which real property tax relief is to be granted and in which BNA and BNAW maintain their headquarters and principal operations, including, but not limited to, production, editorial, home office sales, and home office operations, and to expand their business operation by committing to the lease or purchase of an additional 95,000 square feet of office space in the District of Columbia.

(c) The amount of real property tax owed during an approved deferment period shall not constitute delinquent taxes nor shall BNA and BNAW be assessed any interest or penalty for the deferment period. The deferral shall be prospective and shall apply only to the specified tax years.

(d) Taxes, including penalty and interest thereon, deferred under this section shall constitute a preferential lien upon the real property which shall be payable immediately by the seller, transferor, or conveyor whenever the real property is sold, transferred, or conveyed in any manner, to an entity other than BNAW or a wholly-owned subsidiary of BNA or whenever additional co-owners (other than BNA or a wholly-owned subsidiary of BNA) are added to the real property.

(e) In no event shall the deferral granted pursuant to this section be transferable.

(f) As a condition to the grant of tax benefits under this section, BNA and BNAW shall submit to the Mayor by March 31st of each tax year an affidavit, signed under penalty of perjury. The affidavit shall contain the following averments or documentation of same establishing that after reasonable investigation, the undersigned have determined that BNA and BNAW:

(1) Have met and intend to continue to meet the requirements applicable to the receipt of the real property tax deferral pursuant to the Agreement;

(2) Are in compliance with the terms of all public benefit agreements entered into with the District;

(3) Have recorded as an obligation all unpaid taxes on the subject property in their financial statements;

(4) Are not now receiving and do not now have pending any other application for forgiveness of the obligation to pay any taxes, or for the abatement of real property tax liability imposed by the District, except as provided in § 47-825.1 and subsection (i) of this section;

(5) Are not delinquent in the payment of taxes, assessments, fees, or other indebtedness to the District; and

(6) Are not in violation of the laws and regulations of the District.

(g) The Mayor shall make an annual determination of the compliance by BNA and BNAW with the requirements of this section and the Agreement under this section.

(1) If the Mayor determines that BNA and BNAW are in compliance, the Mayor shall issue to BNA and BNAW and to the Director of the Department of Finance and Revenue ("Director") a certificate of compliance.

(2) If the Mayor determines that BNA and BNAW are not in compliance, and after the Mayor gives to BNA and BNAW written notice and a reasonable time to cure the noncompliance or default and BNA and BNAW fail to cure the noncompliance or default, the Mayor shall issue to BNA and BNAW and to the Director a certificate of noncompliance and shall direct that BNA and BNAW be billed for the assessment based on the accumulated tax liability as if the deferment had not been approved. The Mayor may waive, in whole or in part, interest and penalties, when, in his or her judgment, such waiver would be in the public interest.

(h) Any assessment pursuant to a determination of noncompliance shall be due and payable by March 31st following the end of the tax year in which the certificate of noncompliance was issued.

(i)(1) If BNA and BNAW are aggrieved by any assessment of accumulated real property tax, penalty, and interest on real property owned by BNA or BNAW covered by the Agreement and this section, BNA and BNAW may appeal from the assessment in the same manner and to the same extent as provided in § 47-825.1 and in §§ 47-3303 and 47-3304; provided, however, that the deferred real property taxes need not first be paid.

(2) At the termination of the 10-year deferral period, BNA and BNAW shall be responsible for the payment of the deferred real property tax notwithstanding the pendency of any administrative or judicial challenge to a real property tax levy or assessment.

(j) The Mayor is authorized to develop the necessary forms and procedures, and to promulgate regulations, necessary to carry out the provisions of this section. (Sept. 3, 1974, 88 Stat. 1058, Pub. L. 93-407, title IV, § 435a, as added Apr. 9, 1997, D.C. Law 11-219, § 2, 43 DCR 6176; Apr. 9, 1997, D.C. Law 11-250, § 2, 44 DCR 1253.)

Effect of amendments. — D.C. Law 11-250 added this section.

Temporary addition of section. — Section 2 of D.C. Law 11-219 added this section.

Section 5(b) of D.C. Law 11-219 provided that the act shall expire after 255 days of its having taken effect or upon the effective date of the BNA Washington, Inc., Real Property Tax Deferral Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary addition of section, see § 2 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1996 (D.C. Act 11-365, August 15, 1996, 43 DCR 4588), § 2 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658), § 2 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 2 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

Section 5 of D.C. Act 11-365 provides for application of the act.

For temporary requirement that the Mayor submit to the Council proposed legislation to establish comprehensive standards for the provision of incentives by the District government to maintain existing employers in the District and to attract new employers, see § 4 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658) and § 4 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

For temporary requirement that the Mayor not reduce or deter tax liability should the Mayor fail to submit proposed legislation to establish comprehensive standards to maintain existing employers in the District and to attract new employers, see § 5 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658), and § 5 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

For temporary application of the provisions of D.C. Act 11-440 to the tax year beginning October 1, 1996, and ending September 30, 1997, and for each tax year thereafter through September 30, 1997, see § 7 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658).

Section 8 of D.C. Act 11-440 provides for application of the act.

Section 8 of D.C. Act 12-53 provides for application of the act.

For temporary repeal of the BNA Washing-

ton, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996), see § 8(a) of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), see § 8(b) of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 9(a) of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

Section 7 of D.C. Act 11-475 provides for application of the act.

For temporary repeal of the BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1996 (D.C. Act 11-433, October 18, 1996, 43 DCR 6176), see § 9(b) of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

For temporary amendment of the BNA Washington, Inc., Real Property Tax Deferral Amendment Act of 1996 (D.C. Act 11-514), see § 6 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

Legislative history of Law 11-219. — Law 11-219, the "BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-817, which was retained by Council. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-433 and transmitted to both Houses of Congress for its review. D.C. Law 11-219 became effective on April 9, 1997.

Legislative history of Law 11-250. — Law 11-250, the "BNA Washington, Inc., Real Property Tax Deferral Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-818, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-514 and transmitted to both Houses of Congress for its review. D.C. Law 11-250 became effective on April 9, 1997.

Application of Law 11-250. — Section 7 of D.C. Law 11-250 provided that the provisions of the act shall apply to the tax year beginning October 1, 1996, and ending September 30, 1997, and for each tax year thereafter through September 30, 2007.

Proposed economic development incentives legislation. — Section 4 of D.C. Law

11-250 provides that the Mayor shall submit to the Council, not later than March 25, 1997, proposed legislation to establish comprehensive standards for the provision of incentives by the District government to maintain existing employers in the District and to attract new employers to the District.

Section 5 of D.C. Law 11-250 provides that if the Mayor does not submit the proposed legislation outlined in § 4 of the act, the Mayor shall

not reduce or defer the tax liability, including interest and penalties, or negotiate, or enter into, an agreement for the reduction or deferment of any tax liability, including interest and penalties, of any taxpayer liable to the District for the payment of any tax. Section 5 also provides that if the Mayor does not submit the proposed legislation, one position in the Office of the Assistant City Administrator for Economic Development shall be abolished.

§ 47-846. Same — Homeowner whose adjusted gross income exceeds \$20,000.

Repealed. July 24, 1982, D.C. Law 4-128, § 3, 29 DCR 2401.

Section references. — This section is referred to in § 47-862.

Legislative history of Law 4-128. — See note to § 47-845.

§ 47-846.1. Deferral or forgiveness of property tax.

The Mayor may defer or forgive, in whole or in part, any property tax owed to the District of Columbia with respect to any qualified real property approved pursuant to § 5-1403. (Sept. 3, 1974, Pub. L. 93-407, title IV, § 436a, as added Oct. 20, 1988, D.C. Law 7-177, § 6(b), 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary forgiveness of real property taxes, interest, penalties, fees, and other related charges against the Children's Defense Fund, for real property tax year 1995, see § 2 of the Children's Defense Fund Equitable Real Property Tax Relief Emergency Act of 1997 (D.C. Act 12-60, March 31, 1997, 44 DCR 2238).

Legislative history of Law 7-177. — Law 7-177, the "Economic Development Zone Incentives Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-208, which

was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on August 2, 1988, it was assigned Act No. 7-237 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

§ 47-847. Sale of tax delinquent property — Issuance of deed to District; redemption.

(a) Notwithstanding any other provision of law, whenever any real property in the District of Columbia has been, or shall hereafter be, offered for sale for nonpayment of taxes or assessments of any kind whatsoever, and shall have been bid off in the name of the District of Columbia, and 6 months or more have elapsed since such property was bid off as aforesaid, and the same has not been redeemed as provided by law, the Mayor of the District may enforce the lien of the District for taxes or other assessments on such real property by ordering that a deed in fee simple to such property be issued by the Mayor of the District of Columbia to the District of Columbia, and up to the time of the issuance of the deed such property may be redeemed by the owner or other person having an interest therein by the payment of all taxes or assessments due the District of Columbia upon said property, and all legal penalties, interests and costs

thereon, together with such other expenses and costs, including costs of publication, as may have been incurred by the District.

(b) The time period for redemption of properties brought to tax sale under § 47-1205(b), shall be 6 months.

(c) The time period for redemption of properties brought to tax sale under § 6-2907(f), shall be 6 months. (1973 Ed., § 47-657; Sept. 3, 1974, 88 Stat. 1059, Pub. L. 93-407, title IV, § 437; Aug. 9, 1986, D.C. Law 6-135, § 14(e), 33 DCR 3771; Sept. 20, 1989, D.C. Law 8-31, § 5(e), 36 DCR 4750; Mar. 23, 1995, D.C. Law 10-253, § 104(b), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 104(c), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to delinquent tax list, notice of sale, and public auction, see § 47-1301.

Section references. — This section is referred to in §§ 1-1183.20, 6-2907, 45-2704, 47-848, and 47-1205.

Effect of amendments. — D.C. Law 11-52 substituted “6 months or more” for “2 years or more” in (a).

Emergency act amendments. — Section 1202 of D.C. Act 10-389 provided that the provisions of sections 104(b), 107(c), (d) and (e), and 108(a) and (b) shall apply to the real property tax sale conducted July, 1995, and for each sale conducted thereafter.

For temporary amendment of section, see § 101(b) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 104(c) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of D.C. Act 11-124, provided for application of the act.

Legislative history of Law 6-135. — Law 6-135, the “Homestead Housing Preservation

Act of 1986,” was introduced in Council and assigned Bill No. 6-168, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on May 27, 1986 and June 10, 1986, respectively signed by the Mayor on June 13, 1986, it was assigned Act No. 6-173 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-31. — Law 8-31, the “District of Columbia Solid Waste Regulation Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-135, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-54 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-253. — See note to § 47-811.1.

Legislative history of Law 11-52. — See note to § 47-811.1.

Cited in *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

§ 47-848. Same — Transference to homeowners.

The Council is hereby authorized to establish a program whereby title to properties acquired by tax sale pursuant to § 47-847 may, for whatever sum it deems appropriate, be transferred to persons meeting criteria which shall be established by the Council, who guarantee to pay taxes on and to live in the property for at least 5 years, and who give assurance of bringing such property into reasonable compliance with the building code in the District. (1973 Ed., § 47-658; Sept. 3, 1974, 88 Stat. 1059, Pub. L. 93-407, title IV, § 438; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 26-804 and 26-904.

§ 47-849. Residential property tax relief — Definitions.

For the purposes of §§ 47-849 to 47-856:

(1) The term “single-family residential property” means real property improved by a dwelling which is used exclusively for nontransient residential purposes and which contains not more than 1 dwelling unit, whether as a row, detached, or semidetached structure, or as a single condominium unit in a declared property regime.

(2) The term “cooperative housing association” means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in the District of Columbia, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement. (1973 Ed., § 47-659; Feb. 28, 1978, D.C. Law 2-45, § 2, 24 DCR 3614; Mar. 3, 1979, D.C. Law 2-130, § 7(a), 25 DCR 2517; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-850, 47-854, 47-855, and 47-856.

Legislative history of Law 2-45. — Law 2-45, the “Residential Property Tax Relief Act of 1977,” was introduced in Council and assigned Bill No. 2-127, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second

readings on June 28, 1977, July 26, 1977 and September 13, 1977, respectively. Signed by the Mayor on November 2, 1977, it was assigned Act No. 2-96 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-130. — See note to § 47-803.

Definitions applicable. — The definitions in § 47-803 apply to this section.

§ 47-850. Same — Deductions from estimated market values of properties owned by single families or cooperative housing associations.

(a) For the purpose of computing taxes on real property in the District of Columbia for the tax year beginning July 1, 1977, and ending June 30, 1978, notwithstanding the provisions of § 47-820, there shall be deducted from the estimated market value of a single-family residential property the amount of \$6,000; provided, however, that such deduction shall not exceed the estimated market value of that property.

(b) For the purpose of computing taxes on real property in the District of Columbia for the tax year beginning July 1, 1978, notwithstanding the provisions of § 47-820, there shall be deducted from the estimated market value of a single-family residential property which is the principal place of residence of its owner and from the estimated market value of a residential property with 5 or fewer dwelling units which includes the principal place of residence of its owner the amount of \$9,000; provided, however, that such deduction shall not exceed the estimated market value of the property. To determine the owner’s principal place of residence, the Mayor shall devise a form for an affidavit and mail it to the owner along with the notice of assessment required under § 47-824. In order to obtain the deduction provided under this subsection, the owner shall complete the affidavit and return it to

the Mayor within 60 days of the date such affidavit form was mailed to the owner. The Mayor may verify the contents of the affidavit. The Mayor may grant a reasonable extension of time, not to exceed 60 days, for filing the affidavit whenever in his or her judgment good cause exists therefor.

(c)(1) For the purpose of computing taxes on real property in the District of Columbia for the tax year beginning July 1, 1979, and for each tax year thereafter, notwithstanding the provisions of § 47-820, the amount of \$9,000 or, commencing with that portion of tax year beginning July 1, 1986, that occurs after January 1, 1987, the amount of \$15,000 or, commencing with the tax year beginning July 1, 1988, the amount of \$22,000 or, commencing with the tax year beginning July 1, 1990, the amount of \$30,000 shall be deducted from the estimated market value of improved residential real property which:

(A)(i) Is occupied by the owner of the property who is subject to District income taxation during the period for which the homestead deduction is sought and provided; or

(ii) Is unoccupied due to a major fire, flood, or other casualty that occurred during the 12 months preceding the tax year and was not intentionally caused by the owner; provided, that the property was qualified to receive the homestead deduction at the time of the major fire, flood, or other casualty occurred;

(B) Contains not more than 5 dwelling units, whether as a row, detached, or semidetached structure, or is a single dwelling unit owned as a condominium; and

(C) Is used exclusively for nontransient residential dwelling purposes; provided, that such deduction shall not exceed the estimated market value of the property.

(2)(A) In order to obtain the deduction provided for under this subsection, owners of eligible real property shall complete and file with the District of Columbia Department of Finance and Revenue ("Department") on or before June 1st preceding the tax year, an application form devised by the Department.

(B) For the tax year beginning July 1, 1981, and ending June 30, 1982, the application form required by subparagraph (A) of this paragraph shall be completed and filed with the Department before December 1, 1981. If such application is filed with the Department in person, the real property owner so filing shall be given a receipt for the application. If such application is mailed to the Department, the Department shall mail a receipt to the real property owner so filing; provided, that the real property owner so filing encloses a stamped self-addressed envelope with his application.

(3) [Repealed].

(4) [Repealed].

(d)(1) For the purpose of computing taxes on real property in the District of Columbia for the tax year commencing July 1, 1977, the Mayor shall deduct from the estimated market value of residential real property owned by a cooperative housing association and occupied by the members of such association the amount of 12% of the estimated market value of said property; provided, however, that the deduction may not exceed the amount of \$6,000

multiplied by the number of dwelling units which are the principal place of residence of members of such association.

(2) For the purpose of computing taxes on real property in the District of Columbia for the tax year commencing July 1, 1978, and for each year thereafter, the Mayor shall deduct from the estimated market value of residential real property owned by a cooperative housing association and occupied by the shareholders or members of such association the amount of 60% of the estimated market value of said property; provided, however, that the deduction may not exceed the amount of \$9,000 or, commencing with that portion of tax year beginning July 1, 1986, that occurs after January 1, 1987, the amount of \$15,000 or, commencing with the tax year beginning July 1, 1988, the amount of \$22,000 or, commencing with the tax year beginning July 1, 1990, the amount of \$30,000 multiplied by the number of dwelling units which are occupied by the shareholders or members of such association.

(3) [Repealed].

(4) Notwithstanding the provisions of paragraph (1) of this subsection, for the tax year commencing July 1, 1977 only, tax bills relating to residential real property owned by cooperative housing associations shall not reflect the deduction from estimated market value provided for in paragraph (1) of this subsection. Such tax bills shall be paid in the full amount shown thereon at the times provided for in paragraph (1) of this subsection. The amount of the deduction shall be determined by the Mayor at the earliest practicable time after receipt of the required affidavits and shall be refunded to the owners of such property, such refunds to be made from current real property tax revenues.

(e)(1)(A) Except as provided in paragraph (3) of this subsection, applications shall be filed by September 1st preceding any tax year. To obtain the deduction provided for under subsections (c)(1) and (d)(2) of this section owners of eligible property shall properly complete and file an application as prescribed by the Mayor. To obtain the deduction and to determine the occupancy of eligible property as described in subsection (d)(2) of this section each shareholder or member of the cooperative housing association shall (in such manner and at such time as the Mayor shall prescribe) complete and return the application herein provided for. The Mayor may require the officers or managers of each cooperative housing association to distribute the applications to its shareholders or members and to collect the completed applications from such shareholders or members for return to the Mayor. Officers or managers of each cooperative housing association shall supply such other information as the Mayor may require.

(B) The Mayor may verify the contents of the applications. If any person, corporation, or association shall willfully make a false statement concerning any information required to be supplied on such application, such person, corporation, or association shall be deemed guilty of perjury, and upon conviction thereof shall be subject to the penalties for that offense provided for by § 22-2514. Upon written request by the owner of eligible property, the Mayor may grant a reasonable extension of time for filing the application, not to exceed 30 days.

(C) Notwithstanding any other provision of this subsection, effective October 1, 1993, and for each tax year thereafter, the Mayor, upon written request by the owner of eligible real property, may grant a reasonable extension of time for filing the application for the homestead deduction required to be filed under subparagraph (A) of this paragraph, when in the Mayor's judgment good cause exists for the extension. Any written request for an extension of the filing deadline of the application for the homestead deduction shall only be considered for the tax year in which it is submitted. If an extension is granted, the property tax liability shall be adjusted in accordance with regulations prescribed by the Mayor.

(2) Applications filed by June 1st shall apply for the tax year beginning on October 1st following the date of application and for succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to paragraph (3) of this subsection; provided, that the property remains eligible for the deduction. Eligibility for the deduction shall be determined according to the actual use of the property on the first day of each tax year. Property eligible for the deduction on the first day of any tax year shall remain eligible for the entire tax year. Where there is a change in ownership of residential real property after September 1st but before the beginning of the new tax year on October 1st, the new owner shall immediately notify the Mayor of the change in ownership and, to obtain the homestead deduction, shall file a properly completed application by October 15th. This paragraph shall apply to real property tax year 1994 and quinquennial filings shall be filed by September 1st preceding any tax year.

(2A) The eligibility of any real property for the deduction provided for in this section shall not be affected by the transfer of the real property into a revocable trust, so long as the transfer is without consideration and the property remains the principal residence of the transferor before and after the transfer.

(3) Commencing with the tax year beginning July 1, 1981, and ending June 30, 1982, the Mayor, in order to implement this subsection, shall mail every 5 years, on or before July 1st, an application to the owners of real property eligible for the deduction. Failure of the Mayor to mail an application to an owner of residential real property eligible for the deduction provided for under this section shall in no manner diminish the obligation of the owner to secure and file, in a timely manner, an application in order to obtain the deduction. Each homeowner eligible for the relief provided under this section or § 47-863 shall be required to file an application for the tax relief for the quinquennial filing period on or before September 1st for the tax year beginning October 1st.

(4) Any application properly completed and timely filed for the tax year beginning July 1, 1981 and ending June 30, 1982, shall also apply to succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to paragraph (3) of this subsection. Any residential real property which obtains the deduction provided for under this section, for the tax year beginning July 1, 1981, and ending June 30, 1982 shall obtain the deduction for each succeeding tax year until the tax year for which

said quinquennial filing is required; provided, that the property remains eligible for the deduction. For the tax years beginning after June 30, 1982, the Mayor shall make applications available to any owner of real property for which the deduction was not obtained for the preceding tax year or 2nd half of the preceding tax year, whichever is applicable.

(4A)(A) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, for the tax year beginning July 1, 1992, and ending June 30, 1993, the application required by subsection (c)(2)(A) of this section shall be properly completed and filed by September 15, 1992.

(B) An application properly completed and filed by September 15, 1992, shall apply to the tax year beginning July 1, 1992, and ending June 30, 1993, and for succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to paragraph (3) of this subsection, provided that the property remains eligible for the deduction.

(C) If any residential real property owner properly completes and files an application by September 15, 1992, for the deduction provided for under subsection (c)(1) of this section and qualifies for the deduction for the full tax year beginning July 1, 1992, and ending June 30, 1993, or if any residential real property owned by a cooperative housing association for which applications are properly completed and filed by September 15, 1992, for the deduction provided for under subsection (d)(2) of this section qualifies for the deduction for the full tax year beginning July 1, 1992, and ending June 30, 1993, then:

(i) The real property shall be classified as Class 1 Property for the full tax year;

(ii) No adjustment shall be made to the 1st half tax bill which is due and payable by September 15, 1992; and

(iii) The full deduction for the tax year beginning July 1, 1992, and ending June 30, 1993, shall be reflected in the 2nd half tax bill which is due and payable by March 31, 1993.

(A) Effective October 1, 1994, and for each tax year thereafter, any residential real property which is eligible for the homestead deduction shall receive the homestead deduction as of the first full month following the date on which a properly completed application has been filed. The homestead deduction shall be prorated on a monthly basis. The Mayor may prorate the homestead deduction retroactively to the date the property became eligible for the deduction when in his or her judgment good cause exists to do so. The homestead deduction shall be retroactively applied only within the current real property tax year. Real property is eligible for the homestead deduction if it meets the requirements set forth in this section and a properly completed application is filed with the Mayor. The real property shall continue to receive the homestead deduction until the next quinquennial filing, provided the property remains eligible to receive the deduction.

(B) Effective October 1, 1994, and for each tax year thereafter, when real property that received the homestead deduction becomes ineligible for the homestead deduction, the owner of the real property shall notify the Mayor (in a manner and at a time as the Mayor may prescribe by regulations) of the real property's ineligibility. The Mayor shall terminate the homestead deduction

effective as of the first full month following the date the property became ineligible for the homestead deduction.

(5)(A) Effective for the real property tax year that begins on October 1, 1993, any residential real property which is not eligible for the deduction as of October 1, 1993, shall be eligible for the deduction for the second half of the tax year if the property becomes eligible for the deduction by April 1, 1994. To obtain the deduction for the second half of the tax year, an owner of eligible real property shall procure, complete and file an application by March 31, 1994. Applications filed by March 31, 1994, shall be considered for the second half of the tax year that begins on October 1, 1993, and for the succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to paragraph (3) of this subsection; provided, that the property remains eligible for the homestead deduction. The Mayor may verify the contents of the applications.

(B) Notwithstanding the provisions of this paragraph, effective October 1, 1993, and for each tax year thereafter, the Mayor, upon written request by the owner of eligible real property, may grant a reasonable extension of time, as he or she may prescribe by regulation, for filing the application for the homestead deduction for the second half of the real property tax year, when in the Mayor's judgment good cause exists for the extension. Any written request for an extension of the filing deadline of the application for the homestead deduction for the second half of the real property tax year shall be considered only for the tax year in which it is submitted. If an extension is granted, the property tax liability shall be adjusted in accordance with regulations prescribed by the Mayor.

(6)(A) Whenever any real property which obtained the deduction provided for in this section for the preceding tax year becomes ineligible for the deduction, the owner of such property shall notify the Mayor (in such manner and at such time as the Mayor shall prescribe) of the termination of eligibility. The Mayor may verify the eligibility of any real property, for which the deduction has been obtained for any tax year, for the deduction for any subsequent tax year.

(B) If any owner of real property subject to the provisions of this section who is required to notify the Mayor under this subsection of a termination of eligibility for any tax year fails to notify the Mayor (in such manner and at such time as the Mayor shall prescribe) of such termination, the deduction shall be disallowed for each such tax year and shall be taxed at the appropriate rate of taxation for that class. There shall be added to the tax a penalty of 10% of such tax for each such tax year.

(7) The provisions of this subsection shall apply with respect to tax years beginning after June 30, 1982.

(f) In relation to property tax bills required to be paid on September 15, 1977, and on March 31, 1978, by owners of property eligible for the exemption provided in subsection (a) of this section:

(1) The Mayor shall indicate on each tax bill, to the extent feasible, the fact and amount of the exemption and shall enclose with such tax bills a notice which includes at least the following information:

- (A) The amount of the deduction;
- (B) The name of §§ 47-849 to 47-856 and the date on which it was enacted by the Council of the District of Columbia; and
- (C) The exact amount by which the deduction has reduced the property owner's tax bill;

(2) Any mortgage lender, including but not limited to a savings and loan association, a commercial bank, and a mortgage banker which receives such a property tax bill and pays it on behalf of the owner of the property in question shall forward to said property owner not later than 4 months after the date on which the property tax payment is due:

- (A) A copy of said property tax bill; and
- (B) A copy of the notice required by paragraph (1) of this subsection.

(g) In relation to property tax bills required to be paid after March 31, 1978, the information specified in subsection (f)(1)(A) and (C) of this section shall be included on the face of each tax bill. Nothing in this subsection shall diminish the duty of the Mayor to include an explanation of the exemption provided in subsection (a) of this section on a notice of assessment, as required by § 47-824(9). (1973 Ed., § 47-659.1; Feb. 28, 1978, D.C. Law 2-45, § 3, 24 DCR 3614; Mar. 3, 1979, D.C. Law 2-130, § 7(b), 25 DCR 2517; Nov. 20, 1979, D.C. Law 3-37, § 6, 26 DCR 1564; Apr. 23, 1980, D.C. Law 3-60, § 2, 27 DCR 987; Mar. 10, 1982, D.C. Law 4-73, § 2, 28 DCR 5276; July 24, 1982, D.C. Law 4-129, §§ 2, 4, 29 DCR 2405; Sept. 23, 1986, D.C. Law 6-153, § 4, 33 DCR 4787; Sept. 29, 1988, D.C. Law 7-161, § 3, 35 DCR 5730; Mar. 16, 1989, D.C. Law 7-183, § 3, 35 DCR 7733; July 25, 1990, D.C. Law 8-146, § 3, 37 DCR 3707; Sept. 20, 1990, D.C. Law 8-160, § 3, 37 DCR 4653; Sept. 27, 1990, D.C. Law 8-172, § 3, 37 DCR 4844; Dec. 10, 1991, D.C. Law 9-53, § 2, 38 DCR 6587; Mar. 7, 1992, D.C. Law 9-56, § 4, 38 DCR 7281; Oct. 7, 1992, D.C. Law 9-177, §§ 5, 7, 39 DCR 5868; Aug. 6, 1993, D.C. Law 10-11, § 106, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 106, 40 DCR 5489; June 14, 1994, D.C. Law 10-127, § 3(a), 41 DCR 2050; Mar. 23, 1995, D.C. Law 10-253, § 601(b), 42 DCR 721; May 16, 1995, D.C. Law 10-255, § 46, 41 DCR 5193; Sept. 26, 1995, D.C. Law 11-52, § 106, 42 DCR 3684; Apr. 18, 1996, D.C. Law 11-110, § 68, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-852, 47-853, 47-854, 47-855, and 47-856.

Effect of amendments. — D.C. Law 10-255 redesignated (e)(4B) as present (e)(4A).

D.C. Law 11-52 rewrote (c)(1)(A); and, near the end of the first sentence in (e)(6)(B), substituted "and shall be taxed at the appropriate rate of taxation for the class" for "and the property shall be reclassified in accordance with the provisions of § 47-813(e)."

D.C. Law 11-110 validated a previously made paragraph designation correction to D.C. Law 10-127.

Emergency act amendments. — For temporary addition of an applicability date of April 1, 1995, for Title XII of the Multiyear Budget Spending Reduction and Support Emergency

Act of 1994 (D.C. Act 10-389), see § 2 of the Homestead Deduction Limitation Applicability Date Emergency Amendment Act of 1995 (D.C. Act 11-14, February 28, 1995, 42 DCR 1164).

For temporary addition of an applicability date of April 1, 1995, for Title XI of the Multiyear Budget Spending Reduction and Support Temporary Act of 1994 (D.C. Act 10-401), see § 3 of the Homestead Deduction Limitation Applicability Date Emergency Amendment Act of 1995 (D.C. Act 11-14, February 28, 1995, 42 DCR 1164).

For temporary amendment of section, see § 106 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1603 of D.C. Act 11-124 provided for application of the act.

Legislative history of Law 2-45. — See note to § 47-849.

Legislative history of Law 2-130. — See note to § 47-803.

Legislative history of Law 3-37. — See note to § 47-812.

Legislative history of Law 3-60. — Law 3-60, the "Property Tax Relief Application Deadline Extension Act of 1979," was introduced in Council and assigned Bill No. 3-210, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 22, 1980 and February 5, 1980, respectively. Signed by the Mayor on February 26, 1980, it was assigned Act No. 3-156 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-73. — Law 4-73, the "Property Tax Relief Application Deadline Extension and Arts and Aging Clarifying Amendments Act of 1981," was introduced in Council and assigned Bill No. 4-318, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and November 10, 1981, respectively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-120 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-129. — Law 4-129, the "Homeowner Deductions Application Act of 1982," was introduced in Council and assigned Bill No. 4-267, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982 and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-194 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-153. — See note to § 47-863.

Legislative history of Law 7-161. — See note to § 47-812.

Legislative history of Law 7-183. — See note to § 47-812.

Legislative history of Law 8-146. — See note to § 47-813.

Legislative history of Law 8-160. — See note to § 47-813.

Legislative history of Law 8-172. — See note to § 47-812.

Legislative history of Law 9-53. — Law 9-53, the "Residential Property Tax Relief Act of 1977 Application Deadline and Free Clinic Assistance Program Act of 1986 Extension Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-293. The Bill was adopted on first and second readings on September 11, 1991, and October 1, 1991, respectively. Signed by the Mayor on

October 23, 1991, it was assigned Act No. 9-95 and transmitted to both Houses of Congress for its review. D.C. Law 9-53 became effective December 10, 1991.

Legislative history of Law 9-56. — Law 9-56, the "Revocable Trust Tax Exemption Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-53, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 1, 1991, and November 5, 1991, respectively. Signed by the Mayor on November 25, 1991, it was assigned Act No. 9-99 and transmitted to both Houses of Congress for its review. D.C. Law 9-56 became effective on March 7, 1992.

Legislative history of Law 9-113. — See note to § 47-813.

Legislative history of Law 9-177. — See note to § 47-812.

Legislative history of Law 10-11. — See note to § 47-802.

Legislative history of Law 10-25. — See note to § 47-802.

Legislative history of Law 10-68. — See note to § 47-813.

Legislative history of Law 10-127. — See note to § 47-812.

Legislative history of Law 10-253. — See note to § 47-811.1.

Legislative history of Law 10-255. — See note to § 47-818.1.

Legislative history of Law 11-52. — See note to § 47-811.1.

Legislative history of Law 11-110. — See note to § 47-825.1.

Effective date. — Section 6(b) of D.C. Law 6-153 provided that §§ 4 and 5 of this act shall take effect January 1, 1987.

Application of Law 11-52. — Section 1603 of D.C. Law 11-52 provided that § 106 of the act shall apply after March 31, 1995.

Mayor authorized to issue rules. — See note to § 47-813.

Section 6 of D.C. Law 9-56 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of the act.

Definitions applicable. — The definitions in § 47-803 apply to this section.

Court may deny homestead exemption which owner failed to seek. — Where a property owner has failed, after a notice of an increased assessment, to seek a homestead exemption or request a reasonable extension of time to file the necessary affidavit, the court does not err in denying his claim. *Wyner v. District of Columbia*, App. D.C., 411 A.2d 59 (1980).

§ 47-851. Same — Report on assessment changes for highest assessed properties.

Not later than July 1st of each year, the Mayor shall submit a report to the Council of the District of Columbia with the following information:

(1) The assessment changes, if any, made on the 30 taxable commercial and multifamily residential properties which had the highest assessments in the District of Columbia for the previous property tax year;

(2) An explanation for each such assessment change reported under paragraph (1) of this section; and

(3) The changes in the assessment of each of the 30 properties referred to in paragraph (1) of this section over the previous 4 property tax years. (1973 Ed., § 47-659.2; Feb. 28, 1978, D.C. Law 2-45, § 6, 24 DCR 3614; Mar. 3, 1979, D.C. Law 2-130, § 7(c), 25 DCR 2517; June 14, 1994, D.C. Law 10-127, § 3(b), 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-854, 47-855, and 47-856.

Legislative history of Law 2-45. — See note to § 47-849.

Legislative history of Law 2-130. — See note to § 47-803.

Legislative history of Law 10-127. — See note to § 47-812.

Definitions applicable. — The definitions in § 47-803 apply to this section.

§ 47-852. Same — Report on exemptions and deductions.

(a) On or before the date the Mayor transmits to the Council of the District of Columbia a recommended property tax rate for the property tax year beginning on July 1, 1978, the Mayor shall report the following information to the Council of the District of Columbia:

(1) The number of units in each residential real property owned by a cooperative housing association in the District of Columbia and occupied by the members of said association;

(2) The estimated market value of each said residential property for the 2 most recent assessments; and

(3) A recommendation for a real property tax assessment exemption that would be applied to each individual unit in said property.

(b) The Mayor shall report to the Council of the District of Columbia each year on or before the date the Mayor submits a budget to this Council, as required under § 47-301, the number of properties the Mayor expects to be benefited by the deductions provided in § 47-850, according to the type of property, for the fiscal year to which said budget applies and the amount of revenue which the District of Columbia will forego because of said deductions. (1973 Ed., § 47-659.3; Feb. 28, 1978, D.C. Law 2-45, § 7, 24 DCR 3614; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-854, 47-855, and 47-856.

Legislative history of Law 2-45. — See note to § 47-849.

§ 47-853. Same — Authorized annual adjustments.

The Council of the District of Columbia shall review by October 15th of each year the residential and cooperative property tax relief provided under § 47-850, and shall adjust the relief whenever in its view such adjustment is necessary to reduce excessive residential and cooperative property tax burdens and to maintain equity among and between the owners of different classes of real property. (1973 Ed., § 47-659.4; Feb. 28, 1978, D.C. Law 2-45, § 8, 24 DCR 3614; June 14, 1994, D.C. Law 10-127, § 3(c), 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-854, 47-855, and 47-856.

Legislative history of Law 2-45. — See note to § 47-849.

Legislative history of Law 10-127. — See note to § 47-812.

§ 47-854. Same — Forms, procedures and regulations.

The Mayor is authorized to develop the necessary forms and procedures and to establish regulations necessary to carry out the provisions of §§ 47-849 to 47-856. (1973 Ed., § 47-659.5; Feb. 28, 1978, D.C. Law 2-45, § 9, 24 DCR 3614; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-855, and 47-856.

Cross references. — As to authorization of

Mayor to promulgate rules and regulations, see § 47-814.

Legislative history of Law 2-45. — See note to § 47-849.

§ 47-855. Same — Applicability of provisions.

Sections 47-849 to 47-856 shall apply to the property tax year beginning on July 1, 1977, and to each property tax year thereafter. (1973 Ed., § 47-659.6; Feb. 28, 1978, D.C. Law 2-45, § 12, 24 DCR 3614; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-854, and 47-856.

Legislative history of Law 2-45. — See note to § 47-849.

§ 47-856. Same — Severability of provisions.

The provisions of §§ 47-849 to 47-856 are severable, and if any provision, sentence, clause, section or part is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such holding shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of §§ 47-849 to 47-856 or their application to other persons or circumstances. (1973 Ed., § 47-659.7; Feb. 28, 1978, D.C. Law 2-45, § 11, 24 DCR 3614; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-849, 47-850, 47-854, and 47-855.

Legislative history of Law 2-45. — See note to § 47-849.

Subchapter III. Miscellaneous.

§ 47-861. Violations.

Except as specifically provided in this chapter, or in other provisions of law applicable to the District of Columbia, the Council may by regulation establish penalties for violations of any provisions of this chapter, including any regulation issued pursuant to this chapter. Such penalties may not exceed imprisonment for longer than 1 year, or a fine not to exceed \$10,000, or both, for each offense. (1973 Ed., § 47-661; Sept. 3, 1974, 88 Stat. 1065, Pub. L. 93-407, title IV, § 477; Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 8(d); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Authority to issue regulations is delegated by this section, including the the authority to establish penalties for violations of

this chapter or regulations issued pursuant thereto. *District of Columbia v. Catholic Univ. of Am.*, App. D.C., 397 A.2d 915 (1979).

§ 47-862. Rules and regulations for tax deferral provisions.

The Mayor may promulgate rules and regulations for the proper administration of the provisions of §§ 47-845 and 47-846. (1973 Ed., § 47-662; Oct. 13, 1978, D.C. Law 2-119, § 5, 25 DCR 1514; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-119. — See note to § 47-824.

References in text. — Section 47-846 was repealed by § 3 of D.C. Law 4-128.

§ 47-863. Reduced tax liability for property owners over age 65; rules.

(a) For the purposes of this section, the term:

(1) "Adjusted gross income" shall have the same meaning as defined in § 62 of the Internal Revenue Code.

(2) "Household adjusted gross income" means the adjusted gross income of all individuals residing in a household, excluding the adjusted gross income of any individual who is a tenant by virtue of a written lease.

(b) All Class 1 Property owners 65 years of age or older whose annual household adjusted gross income is less than \$100,000, shall be eligible for a 50% decrease in property tax liability.

(c)(1) For the tax year beginning July 1, 1991, and ending June 30, 1992, the application for the tax relief provided under subsection (b) of this section shall be completed and filed by September 30, 1991.

(2) An application filed by September 30, 1991, shall apply to the tax year beginning July 1, 1991, and ending June 30, 1992, and for succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to the regulations implementing the deduction authorized by subsection (b) of this section, provided that the property remains eligible for the tax relief.

(3) If a residential real property owner who takes advantage of the extended filing period provided for in this section qualifies for the senior citizen's property tax relief provided for under subsection (b) of this section, the tax relief for the second half of the tax year beginning July 1, 1991, and ending June 30, 1992, shall be reflected in the second half tax bill which is due and payable by March 31, 1992.

(4) The difference between the original first half tax bill that did not reflect the senior citizen's property tax relief and the first half tax actually due as a result of the senior citizen's property tax relief, will be refunded by January 15, 1992, if already paid when due by September 16, 1991.

(5) No penalties or interest shall be owed by a taxpayer on the difference between the original tax bill that did not reflect the senior citizen's property tax relief and the tax due based on the tax relief.

(d) A property owner who is otherwise eligible for property tax relief under this section shall not lose the eligibility by virtue of a transfer of the property into a revocable trust, so long as the transfer is without consideration, and the property owner continues to reside in the property before and after the transfer.

(e) The Mayor shall issue rules necessary to implement the provisions of this section.

(e-1)(1) For the tax year beginning July 1, 1992, and ending June 30, 1993, the application for the property tax relief provided for under subsection (b) of this section shall be properly completed and filed by September 15, 1992.

(2) An application properly completed and filed by September 15, 1992, shall apply to the tax year beginning July 1, 1992, and ending June 30, 1993, and for succeeding tax years until the tax year for which quinquennial filing of the application is required pursuant to the regulations implementing the tax relief authorized by subsection (b) of this section, provided that the property remains eligible for the property tax relief.

(3) If a residential real property owner properly completes and files an application by September 15, 1992, for the tax relief provided for under subsection (b) of this section, for the tax year beginning July 1, 1992, and ending June 30, 1993, then:

(A) No adjustment shall be made to the first half tax bill which is due and payable by September 15, 1992;

(B) The tax relief shall be reflected in the second half tax bill which is due and payable by March 31, 1993; and

(C) No penalties or interest shall be owed by a taxpayer on the difference between the first half tax bill that did not reflect the tax relief and the total liability due on March 31, 1993.

(e-2) If a Class 1 Property owner who obtained the tax relief provided under subsection (b) of this section for the tax year beginning July 1, 1991, and ending June 30, 1992, becomes ineligible for the tax relief for the tax year beginning July 1, 1992 and ending June 30, 1993, then:

(A) No adjustment shall be made to the first half tax bill which is due and payable September 15, 1992.

(B) Any adjustments that shall be required as a result of the property owner's ineligibility, shall be reflected in the second half tax bill which is due and payable by March 31, 1993.

(C) No penalties or interest shall be owed by a taxpayer on the difference between the first half tax bill that reflected eligibility for the tax relief and the total tax liability due after the property owner becomes ineligible.

(f) Effective October 1, 1993, and for each tax year thereafter, the Mayor, upon written request by the owner of eligible real property, may grant a reasonable extension of time for filing the application for the senior citizen property tax relief required to be filed pursuant to rules promulgated to implement the provisions of this section, when in the Mayor's judgment good cause exists for the extension. Any written request for an extension of the filing deadline for the senior citizen property tax relief shall only be considered for the tax year in which it is submitted. If an extension is granted, the property tax liability shall be adjusted in accordance with regulations prescribed by the Mayor.

(g)(1) Effective October 1, 1994, and for each tax year thereafter, any residential real property which is eligible for the senior citizen property tax relief shall receive the tax relief as of the first full month following the date on which a properly completed application has been filed. The senior citizen property tax relief shall be prorated on a monthly basis. Real property is eligible for the senior citizen property tax relief if it meets the requirements set forth in subsection (b) of this section and a properly completed application is filed with the Mayor. The Mayor may prorate the senior citizen property tax relief retroactively to the date the property became eligible for the deduction when in the Mayor's judgment good cause exists to do so. The tax relief shall be retroactively applied only within the current real property tax year. The real property shall continue to receive the tax relief until the next quinquennial filing period, provided the property remains eligible to receive the tax relief.

(2) Effective October 1, 1994, and for each tax year thereafter, when real property which received the senior citizen property tax relief provided for in this section becomes ineligible for the tax relief, the owner of the real property shall notify the Mayor (in a manner and at a time as the Mayor may prescribe by regulation) of the real property's ineligibility. The Mayor shall terminate the senior citizen property tax relief effective as of the first full month following the date the property became ineligible for the tax relief. (Sept. 23, 1986, D.C. Law 6-153, § 5, 33 DCR 4787; Mar. 7, 1992, D.C. Law 9-56, § 5, 38 DCR 7281; July 23, 1992, D.C. Law 9-134, § 105, 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 105, 39 DCR 4895; Oct. 7, 1992, D.C. Law 9-177, § 8, 39 DCR 5868; June 14, 1994, D.C. Law 10-127, § 2, 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-850.

Legislative history of Law 6-153. — Law 6-153, the "Real Property Tax Rates for Tax Year 1987 Act of 1986," was introduced in Council and assigned Bill No. 6-476, which was referred to the Committee on Finance and

Revenue. The Bill was adopted on first and second readings on June 24, 1986 and July 8, 1986, respectively. Signed by the Mayor on July 16, 1986 it was assigned Act No. 6-195 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-53. — See note to § 47-850.

Legislative history of Law 9-56. — See note to § 47-850.

Legislative history of Law 9-134. — Law 9-134, the “Omnibus Budget Support Temporary Act of 1992,” was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on

first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 9-177. — See note to § 47-812.

Legislative history of Law 10-127. — See note to § 47-812.

References in text. — “Section 62 of the Internal Revenue Code,” referred to in (a)(1), is classified to 26 U.S.C. § 62.

Mayor authorized to issue rules. — Section 6 of D.C. Law 9-56 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of the act.

Subchapter IV. Condominium and Cooperative Trash Collection Tax Credit.

§ 47-871. Definitions.

For the purposes of this subchapter, the term:

(1) “Condominium”, “cooperative housing association”, “dwelling unit”, or “nontransient” shall have the same meaning as the terms have in § 47-813(d); and

(2) “Homeowners association” means a mandatory membership association of owners of residential real property created and formed pursuant to a recorded instrument including a declaration of covenants, limitations, and conditions, which subjects property within the homeowners association to certain restrictive covenants. (Oct. 2, 1990, D.C. Law 8-180, § 2, 37 DCR 5039; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-180. — Law 8-180, the “Condominium and Cooperative Trash Collection Tax Credit of 1990,” was introduced in Council and assigned Bill No. 8-20, which was referred to the Committee on Finance and Revenue and reassigned to the Com-

mittee on Finance and Revenue. The Bill was adopted on first and second readings on June 12, 1990, and June 26, 1990, respectively. Signed by the Mayor on July 18, 1990, it was assigned Act No. 8-248 and transmitted to both Houses of Congress for its review.

§ 47-872. Computation of tax; annual adjustment; limitations.

(a) For the purpose of computing taxes on real property in the District of Columbia for the tax year beginning July 1, 1991, and ending June 30, 1992, and for each subsequent tax year, a real property owner shall be allowed a credit against the tax imposed by § 47-811, if the improved residential real property:

(1) Is occupied by the owner of the improved residential real property;

(2) Is a single dwelling unit owned as a condominium or is a single dwelling unit that is owned by a member of a homeowners association; and

(3) Is used exclusively for nontransient residential dwelling purposes.

(b) The credit shall not be allowed for a single dwelling unit owned as a condominium or a single dwelling unit that is owned by a member of a homeowners association if the condominium or single dwelling unit:

(1) Is located in a condominium building with 3 or fewer dwelling units; or

(2) Receives trash collection services provided by the Mayor, other than collection of recyclable materials provided pursuant to Chapter 34 of Title 6.

(c) The credit shall be an amount equal to \$60 and shall be adjusted annually beginning in the tax year beginning July 1, 1992, and ending June 30, 1993, and in each subsequent tax year, in accordance with subsection (d) of this section.

(d) The credit shall be adjusted annually by the addition to the prior tax year credit of an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers ("CPI-U") for all items, in the Washington, D.C. Standard Metropolitan Statistical Area, during the calendar year in which the tax year begins, rounded to the nearest whole dollar.

(e) The amount of the credit allowed under this section shall not exceed the amount of property tax otherwise due. (Oct. 2, 1990, D.C. Law 8-180, § 3, 37 DCR 5039; Sept. 26, 1995, D.C. Law 11-52, § 108(a), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-52 deleted "who receives a deduction under § 47-850" following "real property owner" in the introductory language of (a).

Emergency act amendments. — For temporary amendment of section, see § 108(a) of the Omnibus Budget Support Congressional

Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 8-180. — See note to § 47-871.

Legislative history of Law 11-52. — See note to § 47-811.1.

§ 47-873. Same — Cooperative housing associations.

(a) For the purpose of computing taxes on real property in the District of Columbia for the tax year beginning July 1, 1991, and ending June 30, 1992, and for each subsequent tax year, a cooperative housing association shall be allowed a credit against the tax imposed by § 47-811, if the improved residential real property owned by the cooperative housing association:

(1) Is occupied by the shareholders or members of the cooperative housing association; and

(2) Is used exclusively for nontransient residential dwelling purposes.

(b) The credit shall not be allowed for improved residential real property owned by a cooperative housing association if the improved residential real property:

(1) Has 3 or fewer dwelling units; or

(2) Receives trash collection services provided by the Mayor other than the collection of recyclable materials provided pursuant to Chapter 34 of Title 6.

(c) The credit shall be an amount equal to \$60 multiplied by the number of dwelling units that are occupied by the shareholders or members of the

cooperative housing association. The credit shall be adjusted annually beginning in the tax year beginning July 1, 1992, and ending June 30, 1993, and in each subsequent tax year, in accordance with subsection (d) of this section.

(d) The credit shall be adjusted annually by the addition to the prior tax year credit of an amount equal to the percentage increase in the CPI-U for all items, in the Washington, D.C. Standard Metropolitan Statistical Area, during the calendar year in which the tax year begins, rounded to the nearest whole dollar.

(e) The amount of the credit allowed under this section shall not exceed the amount of property tax otherwise due. (Oct. 2, 1990, D.C. Law 8-180, § 4, 37 DCR 5039; Sept. 26, 1995, D.C. Law 11-52, § 108(b), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-52 deleted “that receives a deduction under § 47-850” following the first appearance of “cooperative housing association” in the introductory language of (a).

Emergency act amendments. — For temporary amendment of section, see § 108(b) of

the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 8-180. — See note to § 47-871.

Legislative history of Law 11-52. — See note to § 47-811.1.

§ 47-874. Mayor to issue rules; review.

(a) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this subchapter.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1. (Oct. 2, 1990, D.C. Law 8-180, § 5, 37 DCR 5039; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-180. — See note to § 47-871.

CHAPTER 9. TRANSFER TAX ON REAL PROPERTY.

Sec.	Sec.
47-901. Definitions.	settlement of tax liability; illegal acts; prosecutions.
47-902. Enumeration of transfers exempt from tax.	47-911. Compromise of penalties; adjustment of interest.
47-903. Imposition of tax; rate; returns; liability for tax.	47-912. Limitations; time for making assessments; extension of time by agreement; suspension of running of limitations.
47-904. Consideration; basis for computation of tax.	47-913. Administration of oaths and affidavits.
47-905. Investigation by Mayor to determine correctness of documents; production of books and records; examination of witnesses; service of summons; punishment for disobedience.	47-914. Judicial review.
47-906. Conditions for recordation.	47-915. Refunds; collection.
47-907. Presumption; burden of proof.	47-916. Issuance of rules and regulations to carry out chapter.
47-908. Deficiencies in tax; notice of determination; protest; hearing; time for payment.	47-917. Abatement authorized.
47-909. Interest; waiver; extension of time for payment.	47-918. Penalty; prosecutions.
47-910. Compromise; written agreements for	47-919. Disposition of monies collected.
	47-920. Issuance of rules and regulations for administration of chapter.
	47-921. Severability; savings clause.
	47-922. Effective date.

§ 47-901. Definitions.

When used in this chapter, unless otherwise required by the context:

(1) The word "District" means the geographic boundaries of the District of Columbia.

(2) The word "Mayor" means the Mayor of the District of Columbia, or his or her duly authorized agents or representatives.

(3) The word "deed" means any document, instrument, or writing (other than a will or a lease), regardless of where made, executed, or delivered whereby any real property in the District, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(4) The words "real property" mean every estate or right, legal or equitable, present or future, vested or contingent in lands, tenements, or hereditaments located in whole or in part within the District.

(5) The word "consideration", except as otherwise provided in § 47-904, means the price or amount actually paid, or required to be paid for real property including any mortgages, liens, encumbrances thereon, construction loan deeds of trust or mortgages, or permanent loan deeds of trust or mortgages.

(6) The word "person" means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, any individual acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by 2 or more persons.

(7) The word "deficiency" means the amount or amounts by which the tax imposed by this chapter as determined by the Mayor exceeds the amount shown as the tax upon the return of the person or persons liable for the payment thereof.

(8) The word "taxpayer" means any person required by this chapter to pay a tax, or file a return.

(9) The word "transfer" means the process whereby any real property in the District, or any interest therein is conveyed, vested, granted, bargained, sold, transferred, or assigned from 1 person to another.

(10) The word "transferor" means the person who conveys, vests, grants, bargains, sells, transfers, or assigns any real property or any interest therein in the District, or causes the same through his or her authorized agent.

(11) The word "transferee" means the person to whom any real property in the District, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned. (Sept. 13, 1980, D.C. Law 3-92, § 401, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June

17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Cited in *Askin v. District of Columbia*, 123 WLR 1605 (Super. Ct. 1995).

§ 47-902. Enumeration of transfers exempt from tax.

The following transfers shall be exempt from the tax imposed by this chapter:

(1) Transfers completed prior to the effective date of the enactment of this chapter;

(2) Transfers of property by the United States of America or the District of Columbia governments;

(3) Transfers of property by an institution, organization, corporation, association, or government (other than the United States of America or the District of Columbia) entitled to exemption from real property taxation under § 47-1002, which property was acquired solely for a purpose or purposes which would entitle such property to exemption under such section; provided, that a return, under oath, showing the purpose or purposes for which such property was acquired, shall accompany the deed at the time of its offer for recordation;

(4) Transfers of property by an institution, organization, corporation, or association entitled to exemption from real property taxation by special act of the Congress, which property was acquired solely for a purpose or purposes for which such special exemption was granted; provided, that a return, under oath, showing the purpose or purposes for which such property was acquired, shall accompany the deed at the time of its offer for recordation;

(5) Transfers between husband and wife, or parent and child, without actual consideration therefor;

(6) Transfers evidenced by deeds of release of property which is security for a debt or other obligation;

(7) Transfers which secure a debt or other obligation;

(8) Transfers which, without additional consideration, confirm, correct, modify, or supplement a transfer previously recorded;

(9) Transfers of property to a qualifying lower income homeownership household in accordance with § 47-3503(b);

(10) Transfers of property to a qualifying nonprofit housing organization in accordance with § 47-3505(b);

(11) Transfers of property to a cooperative housing association in accordance with § 47-3503(b)(2);

(12) A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust;

(13) A transfer of property to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust;

(14) A transfer of property by the trustee of a revocable trust if the transfer would otherwise be exempt under this section if made by the grantor of the revocable trust;

(15) The transfer of property to a resident management corporation in accordance with § 47-3506.1; and

(16)(A) A transfer of property to a limited liability company in accordance with § 29-1313.

(B) In order for limited liability companies to receive the exemption provided in subparagraph (A) of this paragraph, the Director of the Department of Finance and Revenue shall be notified, within 30 days, of any change to the members or interests in profits and losses during the 12-month period following the effective date of the conversion so that the applicable transfer tax can be imposed.

(C) Violation of the provisions of subparagraph (B) of this paragraph shall be punishable pursuant to § 47-918. (Sept. 13, 1980, D.C. Law 3-92, § 402, 27 DCR 3390; Mar. 10, 1982, D.C. Law 4-72, § 2, 28 DCR 5273; Oct. 8, 1983, D.C. Law 5-31, § 10(a), 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 4, 36 DCR 457; Mar. 7, 1992, D.C. Law 9-56, § 2, 38 DCR 7281; June 11, 1992, D.C. Law 9-120, § 4(b), 39 DCR 3195; Sept. 8, 1995, D.C. Law 11-38, § 4(c), 42 DCR 3269; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-3503, 47-3505, and 47-3506.1.

Effect of amendments. — D.C. Law 11-38 added (16).

Legislative history of Law 3-92. — See note to § 47-901.

Legislative history of Law 4-72. — Law 4-72, the "Technical Amendments to the District of Columbia Revenue Act of 1980 Act of 1981," was introduced in Council and assigned Bill No. 4-174, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and November 10, 1981, respectively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-119 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-31. — Law 5-31, the "Lower Income Homeownership Tax Abatement and Incentives Act of 1983," was

introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-205. — Law 7-205, the "Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1988," was introduced in Council and assigned Bill No. 7-548, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-276 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-56. — Law 9-56, the "Revocable Trust Tax Exemption

Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-53, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 1, 1991, and November 5, 1991, respectively. Signed by the Mayor on November 25, 1991, it was assigned Act No. 9-99 and transmitted to both Houses of Congress for its review. D.C. Law 9-56 became effective March 7, 1992.

Legislative history of Law 9-120. — Law 9-120, the "Public Housing Homeownership Tax Abatement Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-356, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-194 and transmitted to both Houses of Congress for its review. D.C. Law 9-120 became effective on June 11, 1992.

Legislative history of Law 11-38. — Law 11-38, the "Limited Liability Company Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-75, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-71 and transmitted to both Houses of Congress for its review. D.C. Law 11-38 became effective on September 8, 1995.

Mayor authorized to issue rules. — Section 6 of D.C. Law 9-56 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of the act.

Section 5 of D.C. Law 9-120 provided that the Mayor may issue rules to implement the provisions of the act.

§ 47-903. Imposition of tax; rate; returns; liability for tax.

(a) There is imposed on each transferor for each transfer at the time the deed is submitted to the Mayor for recordation a tax at the rate of 1.1% of the higher of the assessed value or the sale price for such transfer; provided, that in any case where application of the rate of tax to the consideration for the transfer results in a total tax of less than \$1 the tax shall be \$1.

(b) Each such deed shall be accompanied by a return, under oath, in such form as the Mayor may prescribe, executed by all the parties to the deed, setting forth the assessed value and the sales price for the deed, the amount of tax payable, and such other information as the Mayor may require.

(c) The transferor in a transfer shall have responsibility for payment of the taxes imposed by this section; provided, however, that if the transferor should fail to make payment the transferee shall be jointly and severally liable with the transferor for payment of said taxes. Neither the United States nor the District of Columbia governments shall be subject to liability for the tax imposed under this section.

(d) The Mayor is authorized to prescribe, by regulation, reasonable extensions of time for the filing of the return required by subsection (b) of this section. (Sept. 13, 1980, D.C. Law 3-92, § 403, 27 DCR 3390; July 26, 1989, D.C. Law 8-17, § 9, 36 DCR 4160; Apr. 9, 1997, D.C. Law 11-198, § 102, 43 DCR 4569; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271.)

Section references. — This section is referred to in §§ 29-1313 and 45-2602.

Effect of amendments. — Section 102 of D.C. Law 11-198 substituted "higher of the assessed value or the sales price" for "consideration" in (a); and substituted "assessed value and the sales price" for "consideration" in (b).

Section 59 of D.C. Law 11-255 repealed §§ 101, 102, 103(a) and 106 of D.C. Law 11-198.

This section is set out above with the language changed by D.C. Law 11-198 restored to read as it did prior to that amendment.

Emergency act amendments. — For temporary amendment of section, see § 104 of the

Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

For temporary repeal of § 102 of D.C. Act 11-302, see § 3 of the Recordation and Transfer Tax Clarification Emergency Amendment Act of 1996 (D.C. Act 11-402, October 24, 1996, 43 DCR 5806).

For temporary repeal of § 102 of D.C. Act 11-360, see § 2(b) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

For temporary repeal of § 104 of D.C. Act 11-360, see § 2 of the Recordation and Transfer Tax Clarification Emergency Amendment Act of 1996 (D.C. Act 11-402, October 24, 1996, 43 DCR 5806).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Legislative history of Law 3-92. — See note to § 47-901.

Legislative history of Law 8-17. — Law 8-17, the "Revenue Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-198. — See note to § 45-923.

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and as-

signed Bill No. 11-909, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Exemption from taxation for conversion of a partnership to a limited liability company. — For exemption from the transfer tax imposed by this section in connections with the conversion of a partnership to a limited liability company, see § 29-1313(k) as added by § 2(d) of D.C. Law 11-38.

Section 3 of D.C. Law 11-38 provided that § 2 of the act shall apply as of July 23, 1994.

Transfer of tax is not recordation tax. — The mere fact that the transfer tax imposed by this section is paid at the time of recordation does not make it a recordation tax. *McCulloch Dev. Corp. v. Winkler*, 531 F. Supp. 83 (D.D.C. 1982).

Responsibility for payment of tax. — The seller of the property is given responsibility for payment of the transfer tax, even though the District of Columbia is given the additional powers to look to the buyer in the event the seller fails to pay. *McCulloch Dev. Corp. v. Winkler*, 531 F. Supp. 83 (D.D.C. 1982).

Cited in *Askin v. District of Columbia*, 123 WLR 1605 (Super. Ct. 1995).

§ 47-904. Consideration; basis for computation of tax.

Where no price or amount is paid or required to be paid for real property or where such price or amount is nominal, the consideration for the deed to such property, shall, for purposes of the tax imposed by this chapter, be construed to be the fair market value of the real property, and the tax shall be based upon such fair market value. In any such case, the return required to be filed with the deed shall contain such information as to the fair market value of the real property as the Mayor shall require. Whenever, in the opinion of the Mayor, a return does not contain sufficient information as to the fair market value of such real property, the Mayor is authorized to make a determination thereof from the best information available. (Sept. 13, 1980, D.C. Law 3-92, § 404, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-901.

Legislative history of Law 3-92. — See note to § 47-901.

Amount paid rather than fair market value as basis of tax. — The law of the

District of Columbia does not require that the recordation and transfer taxes on real property sold in foreclosure be computed solely on the basis of "fair market value" rather than the amount that was actually paid. *Askin v. District of Columbia*, 123 WLR 1605 (Super. Ct. 1995).

Nominal sales price. — As a matter of law nominal. *Askin v. District of Columbia*, 123 WLR 1605 (Super. Ct. 1995). that sales prices in a foreclosure case were not

§ 47-905. Investigation by Mayor to determine correctness of documents; production of books and records; examination of witnesses; service of summons; punishment for disobedience.

The Mayor, for the purpose of ascertaining the correctness of any return, statement, affidavit, or other document filed pursuant to the provisions of this chapter or pursuant to any regulations of the Mayor issued hereunder, or for the purpose of ascertaining the correctness of any payment of the tax imposed by this chapter or the consideration for any deed upon which the tax is imposed, is authorized to examine any books, papers, records, or memoranda of any person, bearing upon such matters, and may summon any person to appear and produce books, records, papers, or memoranda pertaining thereto and to give testimony or answer interrogatories under oath respecting the same, and the Mayor shall have power to administer oaths to such person or persons. Such summons may be served by any member of the Metropolitan Police Department. If any person having been personally summoned shall neglect or refuse to obey the summons as herein provided, then the Mayor may report that fact to the Superior Court for the District of Columbia, or one of the judges thereof, and said Court or any judge thereof hereby is empowered to compel obedience to such summons to the same extent as witnesses may be compelled to obey the subpoena of that Court. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters to which reference is herein made who shall refuse to permit the examination by the Mayor or any person designated by the Mayor of any such books, papers, records, or memoranda, or who shall obstruct or hinder the Mayor or any person designated by the Mayor in the examination of any books, papers, records, or memoranda, shall upon conviction thereof be subject to the penalties provided in this chapter. (Sept. 13, 1980, D.C. Law 3-92, § 405, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-906. Conditions for recordation.

Except as otherwise provided in this chapter, no deed shall be recorded by the Mayor until the return required by this chapter shall have been filed, and the tax imposed by this chapter shall have been paid. (Sept. 13, 1980, D.C. Law 3-92, § 406, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-907. Presumption; burden of proof.

For purpose of proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all transfers of real property are taxable and the burden shall be upon the taxpayer to show that a transfer is exempt from tax. (Sept. 13, 1980, D.C. Law 3-92, § 407, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-908. Deficiencies in tax; notice of determination; protest; hearing; time for payment.

(a) If a deficiency in the transfer tax is determined by the Mayor, the person liable for the payment thereof shall be notified by registered or certified mail of the determination which shall include a statement of taxes due and the person shall be given a period of not less than 30 days after such notice is sent in which to file a protest with the Mayor and show cause or reason why the deficiency should not be paid. If no protest is filed within such 30-day period, the deficiency as determined by the Mayor shall be final. If a protest is filed within the period of 30 days, opportunity for hearing thereon shall be granted by the Mayor and a final decision thereon shall be made as quickly as practicable and notice of such decision, together with a statement of taxes finally determined to be due, shall be sent by registered or certified mail to the person liable for the payment of the deficiency.

(b) Any deficiency in tax which has become final in accordance with the provisions of subsection (a) of this section shall, if no protest is filed, be due and payable within 10 days after the expiration of the 30-day period provided in subsection (a) of this section or, if a protest is filed, shall be due and payable within 10 days after notice of the final decision of the Mayor upon such protest is sent to the person liable for payment of the deficiency. (Sept. 13, 1980, D.C. Law 3-92, § 408, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-914.

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-909. Interest; waiver; extension of time for payment.

(a) In the case of any failure to make and file a correct return as required by this chapter within the time prescribed by this chapter or in regulations issued by the Mayor, 4% of the tax imposed by this chapter shall be added to such tax for each month or fraction thereof that such failure continues, not to exceed 25% in the aggregate, except when a return is filed after such time and it is shown that the failure to file was due to reasonable cause and not due to neglect, the Mayor may in his discretion waive, in whole or in part, the addition to the tax provided by this subsection.

(b) The amount added to any tax under subsection (a) of this section shall become a part of the tax and shall be collected in the same manner as the tax.

(c) Interest upon the amount finally determined as a deficiency shall be assessed at the same time as the deficiency, and shall be collected as a part of the tax, at the rate of one and one-fourth percent per month or portion of a month, from the date prescribed for the payment of the tax to the date the deficiency is paid.

(d) If the time for payment of any part of a deficiency is extended there shall be collected, as part of the tax, interest on the part of the deficiency the time for payment of which is so extended at the rate of one and one-fourth percent per month or portion of a month for the period of the extension. If a part of the deficiency, the time for payment of which is so extended is not paid in full, together with all penalties and interest due thereon, prior to the expiration of the period of the extension, then interest at a rate of one and one-fourth percent per month or portion of a month shall be added and collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(e) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5% of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(f) If any part of any deficiency is due to fraud with intent to evade the tax, then 50% of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(g) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subsection (c), (e), or (f) of this section, is not paid in full within the time prescribed by this section, there shall be collected as part of the tax interest upon the unpaid amount at the rate of one and one-fourth percent per month or portion of a month from the date when such unpaid amount was due until it is paid.

(h) The Mayor is authorized, at the request of the taxpayer, and before the date prescribed for payment of the tax, to extend the time for payment by the taxpayer of the amount of the tax imposed by this chapter whether determined as a deficiency or otherwise, for a period not to exceed 6 months from the date prescribed for the payment of such tax. (Sept. 13, 1980, D.C. Law 3-92, § 409, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-910. Compromise; written agreements for settlement of tax liability; illegal acts; prosecutions.

(a) Whenever in the opinion of the Mayor there shall arise with respect of any tax imposed under this chapter any doubt as to the liability of the taxpayer or the collectibility of the tax for any reason whatsoever, the Mayor may compromise such tax.

(b) The Mayor is authorized to enter into a written agreement with any person relating to the liability of such person for payment of the tax imposed under this chapter. Any such agreement which is approved by the Mayor and the taxpayer involved, or the taxpayer's authorized agent or representative, shall be final and conclusive, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact, and the case shall not be reopened as to the matters agreed upon or the agreement modified; and in any suit or proceeding relating to the tax liability of the taxpayer such agreement shall not be annulled, modified, set aside, or disregarded.

(c) Any person who, in connection with any compromise under this section or offer of such compromise or in connection with any written agreement under this section or offer to enter into any such agreements, conceals from any officer or employee of the District of Columbia government any material fact relating to the tax imposed by this chapter, destroys, mutilates, or falsifies any books, documents, or records, or makes under oath any false statements relating to the tax imposed by this chapter shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia in the name of the District of Columbia, on information by the Corporation Counsel of the District of Columbia or any of his or her assistants. (Sept. 13, 1980, D.C. Law 3-92, § 410, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-911. Compromise of penalties; adjustment of interest.

The Mayor may for good cause shown compromise any penalty which may be imposed under the provisions of this chapter. The Mayor may adjust any interest, where in his or her opinion, the facts in the case warrant such action. (Sept. 13, 1980, D.C. Law 3-92, § 411, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-912. Limitations; time for making assessments; extension of time by agreement; suspension of running of limitations.

(a) Except as otherwise provided in this section, the amount of any tax imposed by this chapter shall be assessed within 3 years after the deed is recorded by the Mayor and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

(b) In the case of a false or fraudulent return, with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(c) In case of a willful attempt in any manner to defeat or evade the tax imposed by this chapter, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) In the case of failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(e) Where, before the expiration of the time prescribed in this section for the assessment of the tax imposed by this chapter, the Mayor and the taxpayer have consented in writing to its assessment after such time the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(f) The running of the period of limitations provided for in this section on the making of assessments or the collection of the tax imposed by this chapter in any manner authorized by law, shall be suspended for any period during which the Mayor is prohibited from making the assessment or from collecting said tax, and for 90 days thereafter; provided, that in any case where a proceeding is commenced by a taxpayer in any court in connection with the tax imposed by this chapter, the running of the period of limitations shall be suspended for the period of the pendency of such proceeding and for 90 days after the decision of the court shall have become final or, if the proceeding shall have been dismissed or otherwise disposed of, for a period of 90 days after such dismissal or other disposition. (Sept. 13, 1980, D.C. Law 3-92, § 412, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-913. Administration of oaths and affidavits.

The Mayor is authorized to administer oaths and affidavits in relation to any matter or proceeding conducted by the Mayor in the exercise of the Mayor's powers and duties under this chapter. (Sept. 13, 1980, D.C. Law 3-92, § 413, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-914. Judicial review.

Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor under the provisions of § 47-908 may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308. (Sept. 13, 1980, D.C. Law 3-92, § 414, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-915. Refunds; collection.

The provisions of § 47-3310 and the provisions of §§ 47-412 and 47-413 shall be applicable to the tax imposed by this chapter. (Sept. 13, 1980, D.C. Law 3-92, § 415, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-916. Issuance of rules and regulations to carry out chapter.

The Mayor is authorized to issue such rules and regulations as he or she may deem necessary to carry out the purposes of this chapter. (Sept. 13, 1980, D.C. Law 3-92, § 416, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-917. Abatement authorized.

The Mayor is authorized to abate the unpaid portion of any tax due under the provisions of this chapter, or any liability in respect thereof, if the Mayor determines under rule or regulation that the administration and collection costs involved would not warrant collection of the amount due. (Sept. 13, 1980, D.C. Law 3-92, § 417, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-918. Penalty; prosecutions.

Whoever violates any provision of this chapter for which no specific penalty is provided, or any of the rules and regulations issued under the authority of this chapter, shall upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment of not more than 1 year, or to both. Prosecutions for violations of this chapter shall be on information filed in the Superior Court of the District of Columbia in the name of the District of Columbia by the Corporation Counsel or any of his or her assistants. (Sept. 13, 1980, D.C. Law 3-92, § 418, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-902.

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-919. Disposition of monies collected.

All monies collected under this chapter shall be deposited in the Treasury of the District of Columbia to the credit of the General Fund. (Sept. 13, 1980, D.C. Law 3-92, § 419, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-920. Issuance of rules and regulations for administration of chapter.

The Mayor is authorized to issue such rules and regulations necessary for the proper and efficient administration of this chapter. (Sept. 13, 1980, D.C. Law 3-92, § 701, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

§ 47-921. Severability; savings clause.

(a) If any provision of this chapter, including any amendment made by this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, including the remaining amendments, and the application of such provision to other persons or circumstances shall not be affected thereby.

(b) The repeal or amendment by this chapter of any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before the effective date of this chapter or any suit or proceeding had or commenced before the effective date of this chapter, but all such rights and liabilities under such act shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to the effective date of this chapter, under any provisions of law hereby repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been enacted. (Sept. 13, 1980, D.C. Law 3-92, § 702, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3503.

Legislative history of Law 3-92. — See note to § 47-901.

Editor's notes. — This section of D.C. Law 3-92 applies to all repealers or amendments affected by that law. Accordingly, this section must be read with other sections of D.C. Law 3-92 relating to recordation tax on deeds (§ 45-

921 et seq.), residential real property transfer excise tax (§ 47-1401 et seq.), gross sales tax (§ 47-2001 et seq.), use tax (§ 47-2201 et seq.), personal property tax (§ 47-1507), and income tax (§ 47-1801.1 et seq.). The reader is advised to consult the disposition table in Volume 11 to determine specifically which sections outside this chapter were amended or repealed by D.C. Law 3-92.

§ 47-922. Effective date.

The provisions of this chapter shall become effective on August 1, 1980. (Sept. 13, 1980, D.C. Law 3-92, § 704(b), 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-901.

CHAPTER 10. PROPERTY EXEMPT FROM TAXATION.

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| Sec. | Sec. |
| 47-1001. Real property — Listing. | 47-1025. Cedar Hill. |
| 47-1002. Same — Exemptions. | 47-1026. Edes Home. |
| 47-1003. Disabled American Veterans. | 47-1027. General Education Board. |
| 47-1004. National Society of the Colonial Dames of America. | 47-1028. Daughters of American Revolution — Lots 8, 9, and 10, square 173. |
| 47-1005. Real property tax exemption. | 47-1029. Same — Square 173. |
| 47-1006. Use of property by agencies of the United States or American Red Cross. | 47-1030. Same — Same — Lots 12, 13, 14, 15, and 16. |
| 47-1007. Real property tax exemption. | 47-1031. Same — Same — Lots 23, 24, 25, 26, 27, and 28. |
| 47-1008. Abatement or refund of tax assessed against exempt property. | 47-1032. Same — Same — Lots 4, 5, 6, 7, and 11. |
| 47-1009. Appeals from assessments. | 47-1033. National Society United States Daughters of 1812; lot 811, square 210. |
| 47-1010. Rules and regulations. | 47-1034. National Society of the Sons of the American Revolution. |
| 47-1010.1. Real property tax exemption. | 47-1035. The American Legion; lots 32 and 33, square 185. |
| 47-1011. Property of United States, District of Columbia, and foreign legations exempt from assessments for improvements. | 47-1036. National Education Association. |
| 47-1012. Louise Home. | 47-1037. Society of the Cincinnati; lots 42, 43, 49, and part of lot 5, square 67. |
| 47-1013. Sheridan tapestries. | 47-1038. American Veterans of World War II; lot 805, square 160. |
| 47-1014. Chesapeake and Ohio Canal. | 47-1039. Veterans of Foreign Wars; lots 38, 20, 19, and 841, square 757. |
| 47-1015. Oak Hill Cemetery Company. | 47-1040. National Woman's Party; lots 863, 864, and 885, square 725. |
| 47-1016. Corcoran Gallery of Art — Real property and works of art. | 47-1041. American Association of University Women; lot 84, square 197. |
| 47-1017. Same — Endowment fund. | 47-1042. National Guard Association; lot 60, square 625. |
| 47-1018. Howard University. | 47-1043. Woodrow Wilson House. |
| 47-1019. Luther Statue Association. | 47-1044. American Institute of Architects Foundation. |
| 47-1020. Saint Mark's Protestant Episcopal Church. | |
| 47-1021. Young Women's Christian Home. | |
| 47-1022. Young Women's Christian Association — Property. | |
| 47-1023. Same — Accrued liability. | |
| 47-1024. Young Men's Christian Association. | |

§ 47-1001. Real property — Listing.

The Mayor shall publish, by class and by individual property, a listing of all real property exempt from the real property tax in the District. Such listing shall include the address, lot and square number, the name of the owner, the assessed value of the land and improvements of such property, and the amount of the tax exemption in the previous fiscal year. (1973 Ed., § 47-801-1; Sept. 3, 1974, 88 Stat. 1060, Pub. L. 93-407, title IV, § 442; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

American Association of University Women; Lot 84, Square 197. — See Pub. L. 86-709, 74 Stat. 807, Sept. 6, 1960, as amended by D.C. Law 8-110, effective May 1, 1990, as to change of lot description.

Property taxes of Association of the Study of Afro-American Life and History, Inc., forgiven. — Section 2 of D.C. Law 6-182 provided that all taxes, penalties, fees, and other charges assessed against the Association

for the Study of Afro-American Life and History, Inc., on real property located at 1407 14th Street, N.W., Washington, D.C. in Square 0242 North, Lot 0801, for the period of July 1, 1982 to June 30, 1987, be forgiven, and any payments already made be refunded.

Section 3 of D.C. Law 6-182 provided that all taxes, penalties, fees, and other charges assessed against the Association for the Study of Afro-American Life and History, Inc., on real

property located at 1538 9th Street, N.W., Washington, D.C., in Square 0365, Lot 0819, for the period of July 1, 1982 to June 30, 1987, be forgiven and any payments already made be refunded.

Property taxes of Redeemed Temple of Jesus Christ forgiven. — Section 2 of D.C. Law 6-184 provided that all taxes, penalties, fees, and other charges assessed against the Redeemed Temple of Jesus Christ, on real property located at 734 First Street, S.W., Washington, D.C., in Square 643, Lot 830, for the period of July 1, 1983 to June 30, 1987, be forgiven and any payments already made be refunded.

Property taxes of Children's Hospital National Medical Center forgiven. — Section 2 of D.C. Law 6-185 provided that all taxes, penalties, fees, and other charges assessed against the Children's National Medical Center, on real property located at 2220 11th Street, N.W., Washington, D.C., in Square 302, Lot 0073, for the period of July 1, 1984, to June 30, 1987, be forgiven and any payments already made be refunded.

Property taxes of National Child Research Center forgiven. — Section 3 of D.C. Law 6-185 provided that all taxes, penalties, fees, and other charges assessed against the National Child Research Center on real property located at 3209 Highland Place, N.W., Washington, D.C., in Square 2072, Lot 855, for the period of July 1, 1984, to June 30, 1987, be forgiven and any payments already made be refunded.

Property taxes of St. Paul's Episcopal Church, Rock Creek Parish, forgiven. — Section 2 of D.C. Law 7-69 provided that all taxes, interest, penalties, fees, and other related charges assessed against the St. Paul's Episcopal Church, Rock Creek Parish, on real property located at Webster Street and Rock Creek Church Road, N.W., Washington, D.C., in Parcel 111/37, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of Mount Olivet Cemetery forgiven. — Section 2 of D.C. Law 7-70 provided that all taxes, interest, penalties, fees, and other related charges assessed against Mount Olivet Cemetery on real property located at 1500 Bladensburg Road, N.E., Washington, D.C., in Parcel 153/21, Parcel 153/42, and Parcel 153/49 and at 2121 Lincoln Road, N.E., Washington, D.C., in Lot 802 in Square 3538 East and Lot 802 in Square 3538, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of Northminster Presbyterian Church forgiven. — Section 2 of D.C. Law 7-71 provided that all taxes, interest, penalties, fees, and other related charges as-

sessed against the Northminster Presbyterian Church, on real property located at 7720 Alaska Avenue, N.W., Washington, D.C., Lot 806, in Square 2958, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of St. Martin's Catholic Church and Convent forgiven. — Section 2 of D.C. Law 7-72 provided that all taxes, interest, penalties, fees, and other related charges assessed against the St. Martin's Catholic Church and Convent, on real property located at 1908 North Capitol Street, N.W., Washington, D.C., Lot 833, in Square 3531, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of John S. Thomas Memorial Baptist Church forgiven. — Section 2 of D.C. Law 7-73 provided that all taxes, interest, penalties, fees, and other related charges assessed against the John S. Thomas Memorial Baptist Church, on real property located at 1301 W Street, S.E., Washington, D.C., Lot 845, in Square 5792, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of Metropolitan African Methodist Episcopal Church forgiven. — Section 2 of D.C. Law 7-75 provided that all taxes, interests, penalties, fees, and other related charges assessed against the Metropolitan African Methodist Episcopal Church (also known as Bethel Church), on real property located at 1518 M Street, N.W., Washington, D.C., Lot 826, in Square 197, and real property located at 2257 Sudbury Road, N.W., Washington, D.C., Lot 36, in Square 2755, for the period March 1, 1987, to April 30, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of His Church forgiven. — Section 2 of D.C. Law 7-76 provided that all taxes, interest, penalties, fees, and other related charges assessed against His Church, on real property located at 2000 Stanton Terrace, S.E., Washington, D.C., Lot 12, in Square 5851, for the period July 1, 1986, to June 30, 1988, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of St. Mary's Cemetery forgiven. — Section 2 of D.C. Law 7-77 provided that all taxes, interest, penalties, fees, and other related charges assessed against St. Mary's Cemetery, on real property located at 2121 Lincoln Road, N.E., Washington, D.C., in Parcel 119/5 and Parcel 119/15, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made as of February 18, 1988 be refunded.

Property taxes of Mount Olive Baptist Church forgiven. — Section 2 of D.C. Law 7-110 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Mount Olive Baptist Church, on real property located at 1138 Sixth Street, N.E., Washington, D.C., Lot 65 in Square 829, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of St. Matthew's Baptist Church forgiven. — Section 2 of D.C. Law 7-113 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the St. Matthew's Baptist Church, on real property located at 1105 New Jersey Ave., S.E., Washington, D.C., Lot 73 in Square 743 North, for the period July 1, 1986, to June 30, 1988, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Tenth Street Baptist Church forgiven. — Section 2 of D.C. Law 7-114 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Tenth Street Baptist Church, on real property located at 1000 R Street, N.W., Washington, D.C., Lot 60 in Square 336, for the period March 1, 1987, to April 30, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Temple Church of God in Christ forgiven. — Section 2 of D.C. Law 7-115 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Temple Church of God in Christ, on real property located at 1437 Park Road, N.W., Washington, D.C., Lot 813 in Square 2676, for the period March 1, 1987, to April 30, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Salvation Army forgiven. — Section 2 of D.C. Law 7-116 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Salvation Army, on real property located at 503 E Street, N.W., Washington, D.C., Lot 24 in Square 488; 1318 9th Street, N.W., Washington, D.C., Lot 58 in Square 367; 526 1st Street, N.W., Washington, D.C., Lot 81 in Square 569; 1211 G Street, S.E., Washington, D.C., Lot 86 in Square 1020; and 788 Morton Street, N.W., Washington, D.C., Lot 112 in Square 2893, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Georgetown Visitation Convent forgiven. — Section 2 of D.C. Law 7-117 provided that all real property taxes,

interest, penalties, fees, and other related charges assessed against the Georgetown Visitation Convent, on real property located at 1500 35th Street, N.W., Washington, D.C., Lot 202 in Square 1292, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Methodist Cemetery Association forgiven. — Section 2 of D.C. Law 7-118 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Methodist Cemetery Association on real property located at Murdock Mill Road, N.W., Washington, D.C., Lot 803 in Square 1730, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Phyllis Wheatley YWCA forgiven. — Section 2 of D.C. Law 7-120 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Phyllis Wheatley YWCA, on real property located at 1719 Thirteenth Street, N.W., Washington, D.C., Lot 806 in Square 276; 911 Rhode Island Avenue, N.W., Washington, D.C., Lot 818 in Square 364; 901 Rhode Island Avenue, N.W., Washington, D.C., Lot 832 in Square 364; and 901 Rhode Island Avenue, N.W., Washington, D.C., Lot 816 Square 364; for the period March 1, 1987, to April 30, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Calvary Methodist Episcopal Church forgiven. — Section 2 of D.C. Law 7-122 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Calvary Methodist Episcopal Church, on real property located at 1615 Decatur Street, N.W., Washington, D.C., Lot 5 in Square 2654, and at 1459 Columbia Road, N.W., Washington, D.C., Lot 718 in Square 2672, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of Christ Church United Methodist Church forgiven. — Section 2 of D.C. Law 7-124 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Christ Church United Methodist Church, on real property located at Fourth & I Street, S.W., Washington, D.C., Lot 82 in Square 542 North, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 21, 1988 be refunded.

Property taxes of The National Museum of Women in the Arts forgiven. — Section 2 of D.C. Law 7-158 provided that all real property taxes, interest, penalties, fees, and other

related charges assessed against The National Museum of Women in the Arts, on real property located at 1250 New York Avenue, N.W., Washington, D.C., Lot 808 in Square 287, for the period March 1, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Georgetown Day School forgiven. — Section 2 of D.C. Law 7-159 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Georgetown Day School on real property located at 4530 MacArthur Boulevard, N.W., Washington, D.C., Lot 32 in Square 1356, Lot 821 in Square 1673, Lot 812 in Square 1672, and Lot 804 in Square 1672, for the period March 1, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Whitman-Walker Clinic, Inc., forgiven. — Section 2 of D.C. Law 7-160 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Whitman-Walker Clinic, Inc., on real property located at 1407 S Street, N.W., Washington, D.C., Lot 0001 in Square 0206, for the period July 1, 1987, to June 30, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Mount Vernon College forgiven. — Section 2 of D.C. Law 7-165 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Mount Vernon College, on real property located at 2100 Foxhall Road, N.W., Washington, D.C., Lot 2 in Square 1378, and Lot 850 in Square 1374, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Planned Parenthood of Metropolitan Washington forgiven. — Section 2 of D.C. Law 7-166 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Planned Parenthood of Metropolitan Washington, on real property located at 1108 16th Street, N.W., Washington, D.C., Lot 830 in Square 183, for the period March 1, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Mt. Carmel Baptist Church forgiven. — Section 2 of D.C. Law 7-167 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Mt. Carmel Baptist Church, on real property located at 901 3rd Street, N.W., Washington, D.C., Lot 820 in Square 560, for the period March 1, 1988, to

March 31, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of Christ Church Georgetown forgiven. — Section 2 of D.C. Law 7-170 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Christ Church, Georgetown, on real property located at 3116 O Street, N.W., Washington, D.C., Lot 823 in Square 1243, Lot 845 in Square 1243, and Lot 846 in Square 1243, for the period March 1, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of September 29, 1988 be refunded.

Property taxes of St. Stephen and the Incarnation Protestant Episcopal Church forgiven. — Section 2 of D.C. Law 7-174 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the St. Stephen and the Incarnation Protestant Episcopal Church, on real property located at 1525 Newton Street, N.W., Washington, D.C., Lot 804 in Square 2681, for the period March 1, 1987, to April 30, 1987, be forgiven, and that any payments already made for this period as of October 12, 1988 be refunded.

Property taxes of Manna, Inc., forgiven. — Section 6(1) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Manna, Inc., on the construction loan deed of trust to the District of Columbia Department of Housing and Community Development dated September 15, 1987, involving real property located at 3541 and 3543 10th Street, N.W., Washington, D.C., Lot 51 and Lot 52 in Square 2831 be forgiven.

Property taxes of Thaddeus T. Jones and Donnie Mae Jones or 2023 4th Street Cooperative, Inc., forgiven. — Section 6(2) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Thaddeus T. Jones and Donnie Mae Jones or 2023 4th Street Cooperative, Inc., on the deed to and transfer of real property located at 2023 4th Street, N.E., Washington, D.C., Lot 804 in Square 3616, to 2023 4th Street Cooperative, Inc. be forgiven.

Property taxes of 14 S Street Cooperative, Inc., forgiven. — Section 6(3) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against 14 S Street Cooperative, Inc., on the construction loan deed of trust to the District of Columbia Department of Housing and Community Development dated April 1988, involving real property located at 14 S Street, N.E., Washington, D.C., Lot 803 in Square 3511 be forgiven.

Property taxes of James D. Wilner or Hilltop Cooperative Association, Inc., forgiven. — Section 6(4) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against James D. Wilner or Hilltop Cooperative Association, Inc., on the deed to and transfer of real property located at 2422 and 2424 17th Street, N.W., Washington, D.C., Lot 816 and Lot 817 in square 2566, to Hilltop Cooperative Association, Inc. be forgiven.

Property taxes of Thomas K. Nash or Champlain Court Cooperative, Inc., forgiven. — Section 6(5) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Thomas K. Nash or Champlain Court Cooperative, Inc., on the deed to and transfer of real property located at 2201-2207 Champlain Street, N.W., Washington, D.C., Lot 825 in Square 2562, to Champlain Court Cooperative, Inc. be forgiven.

Property taxes of Champlain Court Cooperative, Inc., forgiven. — Section 6(6) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Champlain Court Cooperative, Inc., on the construction loan deed of trust to American Security Bank dated August 9, 1988, involving real property located at 2201 - 2207 Champlain Street, N.W., Washington, D.C., Lot 825 in Square 2562, to Champlain Court Cooperative, Inc. be forgiven.

Property taxes of Howard Bernstein, Maxine Bernstein, Alan M. Bernstein, Craig J. Bernstein or The Pasadena Cooperative forgiven. — Section 6(7) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Howard Bernstein, Maxine Bernstein, Alan M. Bernstein, Craig J. Bernstein, or the Pasadena Cooperative, Inc., on the deed to and transfer of real property located at 2633 Adams Mill Road, N.W., Washington, D.C., Lot 372 in Square 2583, to The Pasadena Cooperative, Inc. be forgiven.

Property taxes of Manna, Inc. or 14 S Street Cooperative, Inc., forgiven. — Section 6(8) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Manna, Inc. or 14 S Street Cooperative, Inc., on the deed to and transfer of real property located at 14 S Street, N.E., Washington, D.C., Lot 803 in Square 3511, to 14 S Street Cooperative, Inc. be forgiven.

Property taxes of The 14 S Street Cooperative, Inc., forgiven. — Section 6(9) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and

other related charges assessed against The 14 S Street Cooperative, Inc., on the construction loan deed of trust to National Bank of Washington dated November 4, 1987, involving real property located at 14 S Street, N.E., Washington, D.C., Lot 803 in Square 3511 be forgiven.

Property taxes of Chapin Ciara Cooperative forgiven. — Section 6(10) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Chapin Ciara Cooperative, on the construction loan deed of trust to Savings Associations Financial Enterprises dated October 28, 1987, involving real property located at 1447 Chapin Street, N.W., Washington, D.C., Lot 862 in Square 2662 be forgiven.

Section 6(11) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Chapin Ciara Cooperative, on the construction loan deed of trust to the District of Columbia Department of Housing and Community Development dated October 28, 1987, involving real property located at 14 Chapin Street, N.W., Washington, D.C., Lot 862 in Square 2662 be forgiven.

Property taxes of The Pasadena Cooperative, Inc., forgiven. — Section 6(12) of D.C. Law 7-205 provided that all deed recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against The Pasadena Cooperative, Inc., on the construction loan deed of trust to Washington Area Community Investment Fund et al. dated August 3, 1988, involving real property located at 2633 Adams Mill Road, N.W., Washington, D.C., Lot 372 in Square 2583, to The Pasadena Cooperative, Inc. be forgiven.

Property taxes of Emory United Methodist Church forgiven. — Section 2 of D.C. Law 7-211 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Emory United Methodist Church, on real property located at 6100 Georgia Avenue, N.W., Washington, D.C., Lot 801, Lot 802, and Lot 808 in Square 2940, for the period March 1, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of Mar. 16, 1989 be refunded.

Property taxes of Exodus Missionary Baptist Church forgiven. — Section 2 of D.C. Law 7-212 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Exodus Missionary Baptist Church, on real property located at 801 Rittenhouse Street, N.W., Washington, D.C., Lot 38 in Square 2979, for the period March 7, 1988, to March 31, 1988, be forgiven, and that any payments already made for this period as of Mar. 16, 1989 be refunded.

Property taxes of Coalition for the Homeless forgiven. — Section 2 of D.C. Law

7-213 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Coalition for the Homeless, on real property located at 455 Florida Avenue, N.W., Washington, D.C., Lot 22 in Square 3094, and at 457 Florida Ave., N.W. Washington, D.C., Lot 53 in Square 3094, for the period July 1, 1986, to June 30, 1989, be forgiven, and that any payments already made for this period as of Mar. 16, 1989 be refunded.

Property taxes of Nazareth Baptist Church forgiven. — Section 2 of D.C. Law 8-27 provided that all real property taxes, interest, penalties, fees, and other related charges against Nazareth Baptist Church, on real property located at 3935 7th Street, N.W., Washington, D.C., Lot 40, in Square 3232, for the period of July 1, 1988, to June 30, 1990, be forgiven, and that any payment made for this period as of Sept. 20, 1989 be refunded.

Property taxes of Pilgrim Rest Baptist Church forgiven. — Section 2 of D.C. Law 8-28 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Pilgrim Rest Baptist Church, on real property located at 4611 Sheriff Road, N.E., Washington, D.C., Lot 136, in Square 5151, for the period of July 1, 1987, to June 30, 1989, be forgiven, and that any payments already made for this period as of Sept. 20, 1989 be refunded.

Property taxes of Christ Church of Washington forgiven. — Section 2 of D.C. Law 8-104 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Christ Church of Washington, on real property located at 3855 Massachusetts Avenue, N.W., Washington, D.C., Lot 824 in Square 1816, for the period March 1, 1989, to March 31, 1989, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Church of the Living God forgiven. — Section 2 of D.C. Law 8-105 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Church of the Living God, on real property located at 3427 - 14th Street, N.W., Washington, D.C., Lot 126 in Square 2836, for the period July 1, 1987, to June 30, 1990, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Mt. Rona Missionary Baptist Church forgiven. — Section 2 of D.C. Law 8-106 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Mt. Rona Missionary Baptist Church, on real property located at 3431 - 13th Street, N.W., Washington, D.C., Lot 821 in Square 2839, for the period March 1, 1989, to May 31, 1989, be forgiven, and that

any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Buddhist Congregational Church of America forgiven. — Section 2 of D.C. Law 8-108 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Buddhist Congregational Church of America, on real property located at 5401 - 16th Street, N.W., Washington, D.C., Lot 44 in Square 2718, for the period March 1, 1989, to April 30, 1989, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Hemingway Temple A.M.E. Church forgiven. — Section 2 of D.C. Law 8-109 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Hemingway Temple A.M.E. Church, on real property located at 501 P Street, N.W., Washington, D.C., Lots 819 and 820 in Square 478, for the period March 1, 1987, to March 31, 1987, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Arts Club of Washington forgiven. — Section 2 of D.C. Law 8-111 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Arts Club of Washington, on real property located at 2015 - 2017 Eye Street, N.W., Washington, D.C., Lot 846 in Square 78, for the period March 1, 1989, to March 31, 1989, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of Fifteenth Street Presbyterian Church forgiven. — Section 2 of D.C. Law 8-112 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Fifteenth Street Presbyterian Church, on real property located at 1701 - 15th Street, N.W., Washington, D.C., Lot 822 in Square 207, and at 4503 - 17th Street, N.W., Washington, D.C., Lot 29 in Square 2651, for the period March 1, 1989, to March 31, 1989, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of The Phillips Collection forgiven. — Section 2 of D.C. Law 8-113 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against The Phillips Collection, on real property located at 1600 - 21st Street, N.W., Washington, D.C., Lots 72 and 73 in Square 66, and 1621 - 21st Street, N.W., Washington, D.C., Lot 138 in Square 93, for the period March 1, 1988, to March 31, 1988, and on the same real property located at 1600 - 21st Street, N.W., Washington, D.C., Lot 74 in Square 66 (formerly Lots 72 and 73 in Square 66) and 1621 - 21st Street, N.W., Washington, D.C., Lot 138 in

Square 93, for the period March 1, 1989, to March 31, 1989, be forgiven, and that any payments already made for these periods as of May 1, 1990 be refunded.

Property taxes of Spiritual Assembly of Baha'is of Washington, D.C., forgiven. — Section 2 of D.C. Law 8-114 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Spiritual Assembly of Baha'is of Washington, D.C., on real property located at 5713 - 16th Street, N.W., Washington, D.C., Lot 60 in Square 2722, for the period March 1, 1989, to May 31, 1989, be forgiven, and that any payments already made for this period as of May 1, 1990 be refunded.

Property taxes of National Council for Negro Women forgiven. — Section 2 of D.C. Law 8-167 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the National Council for Negro Women, on real property located at 1318 Vermont Avenue, N.W., Washington, D.C., Lot 55 in Square 242, for the period July 1, 1989, to June 30, 1990, be forgiven, and that any payments already made for this period as of September 26, 1990 be refunded.

Property taxes of District of Columbia Jewish Community Center exempted. — Section 2 of D.C. Law 8-191 provided that that portion of real property designated as Lot 818 in Square 194 in the District of Columbia shall be exempt from real property taxation from the date of acquisition of the real property by the District of Columbia Jewish Community Center ("DCJCC") as long as:

(1) The real property is owned by the DCJCC or the DCJCC's successors or assigns; and

(2) The improvements to be constructed on the real property are used as a community center by DCJCC or the DCJCC's successors or assigns.

Property taxes of Petworth Methodist Church forgiven. — Section 2 of D.C. Law 8-210 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Petworth Methodist Church, on real property located at 32 Grant Circle, N.W., Washington, D.C., Lot 804-part in Square 3226, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 6, 1991 be refunded.

Property taxes of Paramount Baptist Church forgiven. — Section 2 of D.C. Law 8-211 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Paramount Baptist Church on real property located at 3924 4th Street, S.E., Washington, D.C., Lot 68 in Square 6154, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any

payments already made for this period as of March 6, 1991 be refunded.

Property taxes of Jerusalem Baptist Church forgiven. — Section 2 of D.C. Law 8-212 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Jerusalem Baptist Church, on real property located at 2610 P Street, N.W., Washington, D.C., Lot 819 in Square 1262, and on real property located at 2604 P Street, N.W., Washington, D.C., Lot 823 in Square 1262, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 6, 1991 be refunded.

Property taxes of Episcopal Church Home forgiven. — Section 2 of D.C. Law 8-213 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Episcopal Church Home, on real property located at 32nd Street, N.W., Washington, D.C., Lot 17, Lot 18, Lot 62, Lot 821, Lot 19, Lot 20, and Lot 21 in Square 1270, on real property located at 3124 Q Street, N.W., Washington, D.C., Lot 64 in Square 1270, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 6, 1991 be refunded.

Property taxes of Mount Ephraim Baptist Church, Inc., forgiven. — Section 2 of D.C. Law 8-214 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Mount Ephraim Baptist Church, Inc. on real property located at 5713 Dix Street, N.E., Washington, D.C., Lot 23 in Square 5253 and on real property located at Dix Street, N.E., Lot 44-part (formerly Lots 812, 813 and 816) in Square 5228, for the period March 1, 1990, to May 31, 1990, be forgiven, and that any payments already made for this period as of March 6, 1991 be refunded.

Property taxes of Takoma Park Baptist Church forgiven. — Section 2 of D.C. Law 8-249 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Takoma Park Baptist Church, on real property located at 635 Aspen Street, N.W., Washington, D.C., Lot 804-part in Square 3169 for the period March 1, 1990, to March 31, 1990, and on real property located at 612 Butternut Street, N.W., Washington, D.C., Lot 008 in Square 3169 for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991 be refunded.

Property taxes of American Chemical Society, Inc., forgiven. — Section 2 of D.C. Law 8-250 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against American Chemical Society, Inc., on real property located at 1550 M

Street, N.W., Washington, D.C., Lot 854-part in Square 197, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of House of Mercy forgiven. — Section 2 of D.C. Law 8-251 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the House of Mercy, on real property located at 2000 Rosemount Avenue, N.W., Washington, D.C., Lot 807 in Square 2618, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of Israel Metropolitan CME Church forgiven. — Section 2 of D.C. Law 8-252 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Israel Metropolitan CME Church, on real property located at 557 Randolph Street, N.W., Washington, D.C., Lot 103 in Square 3232 for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of The New Macedonia Baptist Church forgiven. — Section 2 of D.C. Law 8-253 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against The New Macedonia Baptist Church, on real property located at 4117 Alabama Avenue, S.E., Washington, D.C., Lot 817 in Square 5367 and on real property located at 4205 Barker Lane, S.E., Washington, D.C., Lot 29 in Square 5367, for the periods March 1, 1989, to March 31, 1989 and March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of Temple Sinai Fund, Inc., forgiven. — Section 2 of D.C. Law 8-254 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Temple Sinai Fund, Inc., on real property located at 3100 Military Road, N.W., Washington, D.C., Lot 807 in Square 2289, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of The Star of Bethlehem Church of God In Christ forgiven. — Section 2 of D.C. Law 8-255 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against The Star of Bethlehem Church of God In Christ, on real property located at 5331 Colorado Avenue, N.W., Washington, D.C., Lot 804 in Square 2716, for the period March 1, 1989, to March 31, 1989, and the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of Scripture Church of Christ forgiven. — Section 2 of D.C. Law 8-256 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Scripture Church of Christ, on real property located at 810 O Street, N.W., Washington, D.C., Lot 66 in Square 399, and on real property located at 1332 9th St., N.W., Lot 69 in Square 367, for the period March 1, 1990, to March 31, 1990, be forgiven, and that any payments already made for this period as of March 8, 1991, be refunded.

Property taxes of the Way of the Cross Church of Christ, Inc. forgiven. — Section 2 of D.C. Law 9-58 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Way of the Cross Church of Christ, Inc., on real property located at 822D Street, N.E., Washington, D.C., Lot 31 in Square 915; 819 D Street, N.E., Washington, D.C., Lot 74 in Square 916; 332 9th Street, N.E., Washington, D.C., Lot 811 in Square 916; and 9th Street, N.E., Washington, D.C., Lot 818 in Square 916 for the period July 1, 1987, to June 30, 1991, be forgiven and any payments made during that period be refunded.

Tax Exemption Study and Recommendation Emergency Resolution of 1995. — Pursuant to Resolution 11-19, effective February 7, 1995, the Council required, on an emergency basis, a mayoral study of all property, income, and sales tax exemptions in the District of Columbia.

Cited in National Medical Ass'n v. District of Columbia, App. D.C., 611 A.2d 53 (1992).

§ 47-1002. Same — Exemptions.

Only the following real property shall be exempt from taxation in the District of Columbia:

- (1) Property belonging to the United States of America;
- (2) Property belonging to the District of Columbia;
- (3) Property belonging to foreign governments and used for legation purposes;

(4) Property belonging to the Commonwealth of the Philippines and used for government purposes;

(5) Property heretofore specifically exempted from taxation by any special act of Congress, in force December 24, 1942, so long as such property is used for the purposes for which such exemption is granted. The Council of the District of Columbia shall report annually to the Congress the use being made of such specifically exempted property, and of any changes in such use, with recommendations;

(6) Art gallery buildings belonging to and operated by organizations which are not organized or operated for private gain, and are open to the public generally, and for admission to which no charge is made on more than 2 days each week;

(7) Library buildings belonging to and operated by organizations which are not organized or operated for private gain and are open to the public generally;

(8) Buildings belonging to and operated by institutions which are not organized or operated for private gain, which are used for purposes of public charity principally in the District of Columbia;

(9) Hospital buildings, belonging to and operated by organizations which are not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a hospital;

(10) Buildings belonging to and operated by schools, colleges, or universities which are not organized or operated for private gain, and which embrace the generally recognized relationship of teacher and student;

(11) Buildings belonging to and used in carrying on the purposes and activities of the National Geographic Society, American Pharmaceutical Association, the Medical Society of the District of Columbia, the National Lutheran Home, the National Academy of Sciences, Brookings Institution, the American Forestry Association, the American Tree Association, the Carnegie Institution of Washington, the American Chemical Society, the American Association to Promote the Teaching of Speech to the Deaf, and buildings belonging to such similar institutions as may be hereafter exempted from such taxation by special acts of Congress;

(12) Cemeteries dedicated to and used solely for burial purposes and not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a cemetery;

(13) Churches, including buildings and structures reasonably necessary and usual in the performance of the activities of the church. A church building is one primarily and regularly used by its congregation for public religious worship;

(14) Buildings belonging to religious corporations or societies primarily and regularly used for religious worship, study, training, and missionary activities;

(15) Pastoral residences actually occupied as such by the pastor, rector, minister, or rabbi of a church; provided, that such pastoral residence be owned by the church or congregation for which said pastor, rector, minister, or rabbi officiates; and provided further, that not more than 1 such pastoral residence shall be so exempt for any 1 church or congregation;

(16) Episcopal residences owned by a church and used exclusively as the residence of a bishop of such church;

(17) Buildings belonging to organizations which are charged with the administration, coordination, or unification of activities, locally or otherwise, of institutions or organizations entitled to exemption under the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010, and used as administrative headquarters thereof;

(18)(A) Grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes of any institution or organization entitled to exemption under the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010.

(B)(i) Additional grounds belonging to and forming a part of the property of such institutions or organizations as of July 1, 1942. Such exemption shall be granted only upon the filing of a written application to the Mayor of the District of Columbia, supported by an affidavit that such additional grounds are not held for profit or sale but only for the enlargement and expansion of said institution or organization.

(ii) If, however, at any future date the grounds so exempted, or any portion thereof, shall be sold and a profit shall result from such sale the taxes thereon for each year from the date of acquisition of such property for which no tax has been paid shall immediately become due and payable, without interest; provided, however, that the total of such taxes shall not exceed 50% of the net profit derived from such sale. The Mayor shall be furnished a copy of the contract of sale together with other evidence necessary to establish the amount of profit or loss therefrom at least 10 days prior to the date of settlement of such sale. Taxes assessed under this subparagraph shall constitute a lien upon such property;

(19) Buildings owned by and actually occupied and used for legitimate theater, music, or dance purposes by a corporation which is not organized or operated for commercial purposes or for private gain, which buildings are open to the public, generally, and for admission to which charges may be made to cover the cost of expenses;

(20)(A) Multifamily and single family rental and cooperative housing for, and individual condominium units rented to low and moderate income persons which are receiving assistance through 1 or more of the following federal programs: (i) interest reduction payments made under § 236 of the National Housing Act (§ 1715z-1 of Title 12, United States Code); (ii) payments made for new construction, substantial rehabilitation, or moderate rehabilitation under § 8 of the United States Housing Act of 1937 (§ 1437f of Title 42, United States Code); (iii) payments made under § 101 of the Housing and Urban Development Act of 1965 (§ 1701s of Title 12, United States Code); (iv) mortgage insurance under § 221 (d)(3), BMIR, of the National Housing Act (§ 1715l (d)(3) of Title 12, United States Code); (v) direct loans made under § 202 of the Housing Act of 1959 (§ 1701q of Title 12, United States Code); and (vi) rental rehabilitation funded under § 17 of the United States Housing Act of 1937 (42 U.S.C. § 1437o), if 80% or more of the units in the housing project are provided to low-income persons or families receiving assistance under 42

U.S.C. § 1437o; provided, however, that the owner(s) of such exempt property shall submit by March 1st of each year an annual income and expense statement to the District of Columbia Department of Finance and Revenue and shall make a yearly payment in lieu of taxes in an amount calculated in the following manner:

(I) If the owner(s) is not organized for profit, no payment shall be required; and

(II) If the owner(s) is organized as a limited dividend or limited profit owner, or a profit owner, a payment for such building, in an amount equal to 5% of the gross income derived from the operation of such building during the latest completed annual accounting period, shall be required.

(B) If the owner(s) of exempt property fail to make the payment in lieu of taxes in a manner which the Department of Finance and Revenue shall prescribe, such property shall be subject to the provisions of § 47-1301 et seq.

(C) This paragraph (20) shall not apply to those properties granted an exemption before January 5, 1971, under paragraph (8) of this section.

(D) For purposes of this paragraph, the term:

(i) "Condominium" means the ownership of a single dwelling unit in a horizontal property regime as that term is used in § 45-1703; and

(ii) "Individual condominium units" means a portion of the condominium designed and intended for individual ownership together with the undivided interest in the common elements to which they appertain.

As the exemption provided for in subparagraph (A)(vi) of this paragraph applies to the Southern Court project located at 845, 855, 865, 875, and 885 Chesapeake Street, S.E., and 860, 870, 880, and 890 Southern Avenue, S.E., on lot 39 in Square 6210 in the District of Columbia, it shall be effective for the tax year beginning July 1, 1986;

(21) Property transferred to a qualifying lower income homeownership household in accordance with § 47-3503(c);

(22) Property transferred to a qualifying nonprofit housing organization in accordance with § 47-3505(d);

(23)(A) Subject to the provisions of subparagraph (B) of this paragraph, a supermarket development, as that term is defined in § 47-3801, in an underserved area of the District approved pursuant to § 47-3802;

(B) The real property tax exemption granted by subparagraph (A) of this paragraph shall apply:

(i) Only for the first 5 real property tax years beginning after the date of issuance of the final certificate of occupancy for the supermarket;

(ii) Only during the time that the real property is used as a supermarket;

(iii) In the case of a supermarket development on real property not owned by the supermarket, only if the owner of the real property leases the land or structure to the supermarket at a rent reduced from the fair market rent by an amount equal to the amount of the real property tax exemption;

(iv) Only during the time that the supermarket development is in compliance with the requirements of § 1-1161 et seq.;

(v) In the case of a supermarket development that is a new supermarket, only if at the time construction of the new supermarket commenced no

other supermarket, as that term is defined in § 47-3801(2) existed within a 1 mile radius of the new supermarket; and

(24) Property transferred to a resident management corporation in accordance with § 47-3506.1.

(25) The improvements located on that portion of Lot 800 of Square 1112 known as the Correctional Treatment Facility, only during the time that the improvements are operated as a correctional facility housing inmates in the custody of the District of Columbia Department of Corrections. (Dec. 24, 1942, 56 Stat. 1089, ch. 826, § 1; Apr. 9, 1943, 57 Stat. 61, ch. 41, § 1; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 202; 1973 Ed., § 47-801a; Sept. 3, 1974, 88 Stat. 1060, Pub. L. 93-407, title IV, § 441; Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 8(a); Oct. 4, 1978, D.C. Law 2-116, § 2, 25 DCR 1735; Mar. 9, 1983, D.C. Law 4-165, § 4, 29 DCR 4624; Oct. 8, 1983, D.C. Law 5-31, § 10(c), 30 DCR 3879; Feb. 24, 1987, D.C. Law 6-193, § 2, 34 DCR 22; Sept. 29, 1988, D.C. Law 7-173, § 5, 35 DCR 5758; June 11, 1992, D.C. Law 9-120, § 4(c), 39 DCR 3195; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; _____, 1997, D.C. Law 11- (Act 11-523), § 7(b), 44 DCR 1416.)

Section references. — This section is referred to in §§ 7-640, 7-1037, 29-1118, 29-1138, 45-922, 47-902, 47-1005, 47-1007 to 47-1010, 47-1028 to 47-1033, 47-1035, 47-1037, 47-2827, 47-3503, 47-3505, 47-3506.1, and 47-3803.

Effect of amendments. — D.C. Law 11- (Act 11-523) added (25).

Emergency act amendments. — For temporary amendment of section, see § 7(b) of the Correctional Treatment Facility Emergency Act of 1996 (D.C. Act 11-457, December 13, 1996, 44 DCR 156), and § 7(b) of the Correctional Treatment Facility Congressional Review Emergency Act of 1997 (D.C. Act 12-32, March 11, 1997, 44 DCR 1908).

Section 9 of D.C. Act 12-32 provides for application of the act.

Legislative history of Law 2-116. — Law 2-116, the "Direct Payment in Lieu of Tax Act of 1978," was introduced in Council and assigned Bill No. 2-285, which was referred to the Committee on Housing and Urban Development and to the Committee on Finance and Revenue for comments. The Bill was adopted on first, amended first, and second readings on June 13, 1978, June 27, 1978 and July 11, 1978, respectively. Signed by the Mayor on July 26, 1978, it was assigned Act No. 2-243 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-165. — Law 4-165, the "Real Property Tax Rates for Tax Year 1983 Act of 1982," was introduced in Council and assigned Bill No. 4-496, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 27, 1982 and September 21, 1982, respectively. Signed by the Mayor on October 12, 1982, it was assigned Act No. 4-241 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-31. — Law 5-31, the "Lower Income Homeownership Tax Abatement and Incentives Act of 1983," was introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-193. — Law 6-193, the "Low and Moderate-Income Housing Real Property Tax Exemption Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-43, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on December 19, 1986, it was assigned Act No. 6-251 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-173. — Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-124, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-229 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-120. — Law 9-120, the "Public Housing Homeownership Tax Abatement Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-356, which was referred to the Committee of the Whole. The Bill was adopted on first and

second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-194 and transmitted to both Houses of Congress for its review. D.C. Law 9-120 became effective on June 11, 1992.

Legislative history of Law 11- (Act 11-523). — Law 11- (Act 11-523), the "Correction Treatment Facility Act of 1996," was introduced in Council and assigned Bill No. 11-908, which was referred to the Committee on the Judiciary and the Committee on the Whole. The Bill was adopted on first and second readings on December 3, 1996, and December 17, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-523 and transmitted to both Houses of Congress for its review. D.C. Law 11- (Act 11-523) is projected to become law on June 4, 1997.

Mayor authorized to issue rules. — Section 5 of D.C. Law 9-120 provided that the Mayor may issue rules to implement the provisions of the act.

Tax exemption for real and personal property of the Sports Commission. — Section 15(a) of D.C. Law 10-152 declared the real and personal property of the Sports Commission to be public properties exempt from taxes and special assessments now or hereafter imposed by the District.

Section 15(b) of D.C. Law 10-152 provided that bonds issued by the Sports Commission, their transfer, and the interest thereon, are exempt from all District taxation except estate, inheritance, and gift taxes.

Property taxes of New Bethel Baptist Church forgiven. — Section 2 of D.C. Law 4-207 provided that all taxes, penalties, fees, or other charges assessed against the New Bethel Baptist Church on real property located at 1739 9th Street, N.W., Washington, D.C. in Square 395, lot 54, for the period of July 1, 1979, to June 30, 1982, be forgiven.

Property taxes of Metropolitan Community Church forgiven. — Section 2 of D.C. Law 6-138 provided that all taxes, penalties, fees or other charges assessed against the Metropolitan Community Church of Washington on real property located at 415 M Street, N.W., Washington, D.C., in Square 513, Lot 800, for the period of July 1, 1984, to June 30, 1986, be forgiven.

Property taxes of Full Gospel Tabernacle Church forgiven. — Section 2 of D.C. Law 7-194 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Full Gospel Tabernacle Church, on real property located at 632 11th Street, N.E., Washington, D.C., Lot 803 in Square 960, Lot 804 in Square 960, and Lot 805 in Square 960, for the period July 1, 1986, to June 30, 1989, be forgiven, and that any pay-

ments already made for this period as of the effective date of this act be refunded.

Property taxes of Young's Memorial Church of Christ Holiness forgiven. — Section 2 of D.C. Law 7-195 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against Young's Memorial Church of Christ Holiness, on real property located at 2490 Alabama Avenue, S.E., Washington, D.C., Lot 864 in Square 5741, for the period March 1, 1988, to April 30, 1988, be forgiven, and that any payments already made for this period as of the effective date of this act be refunded.

Property taxes of Association for Community Based Education forgiven. — Section 2 of D.C. Law 7-197 provided that all real property taxes, interest, penalties, fees, and other related charges assessed against the Association for Community Based Education, on real property located at 1806 Vernon Street, N.W., Washington, D.C., Lot 18 in Square 2556, for the period March 1, 1988, to March 30, 1988, be forgiven, and that any payments already made for this period as of the effective date of this act be refunded.

Property taxes of Commonwealth of Northern Mariana Islands in the capital of the United States forgiven. — Section 208 of Pub. L. 101-219 provided that real property owned by the Commonwealth of the Northern Mariana Islands in the capital of the United States and used by the Resident Representative thereof in the discharge of his representative duties under the Covenant shall be exempt from assessment and taxation.

Exemptions from cost of improving roadways, alleys, and sidewalks. — Section 2 of D.C. Law 10-186 provided for an exemption of low assessment home owners, entities exempt from the real property tax, and all real property owners (when the Mayor determines that the health and safety of the public is at risk) from the requirement of depositing funds, or paying any of the cost for the improvement of streets, avenues, roads, or alleys abutting their property or the construction of curbs, gutters, sewers, and sidewalks on the streets, avenues, roads, or alleys. Law 10-186 also required the Mayor to submit to the Council a 5-year plan for the improvement of all unimproved streets, avenues, roads, and alleys and the construction of curbs, gutters, sewers, and sidewalks thereon in the District. Section 2 of D.C. Law 10-186 was codified as § 7-640.

Section 3 of D.C. Law 10-186 provided that within 6 months of September 24, 1994, the Mayor shall submit to the Council a 5-year plan for the improvement of all unimproved streets, avenues, roads, and alleys and the construction of curbs, gutters, sewers, and sidewalks thereon in the District.

Tax exemptions must be strictly construed. *Combined Congregations v. Dent*, 140 F.2d 9 (D.C. Cir. 1943); *Hebrew Home for Aged v. District of Columbia*, 142 F.2d 573 (D.C. Cir. 1944); *Bethel Pentecostal Tabernacle, Inc. v. District of Columbia*, App. D.C., 106 A.2d 143 (1954).

Categorically exempt parties must file a written application for each change in ownership before the 1st day of the next fiscal year after their purchase in order to obtain a tax exempt status. *Trustees of Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 378 A.2d 661 (1977).

And government lacks power to exempt where application late. — The government of the District has no power to exempt real estate where the application for exemption comes after the property has been assessed for a year. *Congregational Home v. District of Columbia*, 202 F.2d 808 (D.C. Cir. 1953).

Exemption generally dependent on use. — Except in cases of absolute exemption, the tax exemption of each year is dependent on the use to which the property is put. *Workshop Ctr. of Arts v. District of Columbia*, App. D.C., 145 A.2d 571 (1958).

Church exemption allows several exempt uses. — Under subsections (13), (14), and (15) of this section, church's use of property for more than 1 statutory exemption does not preclude full exemption; exempt uses need not fall within 1, and only 1, statutory provision. *First Superet Branch Church of Washington, D.C., Inc. v. District of Columbia*, 112 WLR 369 (Super. Ct. 1984).

Nature of property use exempts pastoral residence. — Resident ministers' contributions to church do not constitute income or rent, precluding full exemption as pastoral residence under subsection (15) of this section. It is the nature of the use of the property, not the fact that income may be derived from it, which controls whether the property is exempt from taxation. *First Superet Branch Church of Washington, D.C., Inc. v. District of Columbia*, 112 WLR 369 (Super. Ct. 1984).

Regulation invalid as inconsistent with intent of section. — A regulation requiring that real property be occupied and used by the organization seeking exemption for at least 1 of the types of categories of exempt purposes described in this section is invalid as inconsistent with the legislative intent of this section. *District of Columbia v. Catholic Univ. of Am.*, App. D.C., 397 A.2d 915 (1979).

Income from property, standing alone, not sufficient reason to tax. — The fact that rent or income is secured from the exempt property is not, standing alone, a sufficient reason to assess and tax the property. *District of Columbia v. Maryland Synod of Lutheran Church*, App. D.C., 307 A.2d 735 (1973).

Administrative organizations need not deal with 3rd parties nor directly supervise members. — The tax exemption accorded an organization charged with the administration, coordination, or unification of activities of exempt institutions or organizations does not require that the organization claiming the exemption administer, coordinate, or unify only those activities in which it is dealing with 3rd parties, and it is not limited to organizations which have direct authority over their members. *Conference of Major Religious Superiors of Women, Inc. v. District of Columbia*, 348 F.2d 783 (D.C. Cir. 1965).

Policy of United States is not to pay real estate taxes to District in the absence of evidence of an intent to create an exception to this policy. *Cobb v. United States*, 172 F.2d 277 (D.C. Cir. 1949).

Charity must use and own building. — Under paragraph (8) of this section, there must be a use by a charitable organization and ownership by a charitable organization. *Catholic Home for Aged Ladies, Inc. v. District of Columbia*, 161 F.2d 901 (D.C. Cir. 1947).

But unnecessary to confine activities to furnishing life's necessities. — It is not necessary for an organization, in order to qualify as a "charity" whose realty is exempt from taxation, to confine its activities to the furnishing of bare necessities of life, such as food, shelter, and clothing. *District of Columbia v. Friendship House Ass'n*, 198 F.2d 530 (D.C. Cir. 1952).

And can receive fees from those who can pay. — An organization which is a "charity" is exempt from taxation though it receives fees from those who can afford to pay. *District of Columbia v. Friendship House Ass'n*, 198 F.2d 530 (D.C. Cir. 1952).

Charity must be in District. — The exemption provided in paragraph (8) is limited to those buildings owned and operated by charitable institutions and used for purposes of charity having its principal impact within the District of Columbia. The critical phrase "principally within the District of Columbia" is directly and plainly coupled with "public charity." *National Medical Ass'n v. District of Columbia*, App. D.C., 611 A.2d 53 (1992).

Institution similar to specified institutions not "charities." — Institutions that are similar to the specified institutions listed in paragraph (11) of this section are not entitled to have their tax-exempt status determined by paragraph (8) of this section. *District of Columbia v. National Parks Ass'n*, 444 F.2d 963 (D.C. Cir. 1971).

Educational institution must relieve District of burden. — In order to qualify for an exemption, an educational institution must render a service which relieves the District of a burden it otherwise might assume. *Washington*

Chapter of Am. Inst. of Banking v. District of Columbia, 203 F.2d 68 (D.C. Cir. 1953).

Buildings belonging to colleges. — The investing in Amherst of broad powers and duties of management and administration, over Folger Shakespeare Memorial Library by the will, in the absence of any interest, duties or powers residing in any other person or entity leads to no other conclusion but that the properties, as a matter of law, "belong to" Amherst within the meaning of paragraph (10) of this section. The fact that Amherst, as trustee, holds only bare legal title to the property does not permit a contrary legal conclusion. District of Columbia v. Trustees of Amherst College, App. D.C., 515 A.2d 1115 (1986).

Use embracing relationship between teacher and student. — Amherst is a college which embraces "the generally recognized relationship of teacher and student." The residential property in question belongs to it, and it is not used for gain. Any rents collected from visiting scholars and students are nominal. Thus, the buildings at issue here are entitled to full exempt status. District of Columbia v. Trustees of Amherst College, App. D.C., 515 A.2d 1115 (1986).

Money spent on professional activities not crucial factor. — The fact that a nonprofit professional resident theater and drama school spends more money for its professional theater productions than it does for the school is not a crucial factor in determining whether the school should be granted an exemption from real estate taxation on the basis that it is an educational institution. Washington Theater Club, Inc. v. District of Columbia, App. D.C., 311 A.2d 492 (1973).

No exemption where education incidental. — Where the prime objective of an institution is the training of bank employees, its real estate is not exempt from taxation. Washington Chapter of Am. Inst. of Banking v. District of Columbia, 203 F.2d 68 (D.C. Cir. 1953).

School not "organized" for private gain where assets used for nonexempt purposes. — Where the assets of a school can be used only for the designation of a school, college, university or fund not organized or operated for private gain, the corporation is not "organized" for private gain. Service Sch. Found. v. District of Columbia, 276 F.2d 517 (D.C. Cir. 1960).

Concurrence of ownership and use are not necessary to the exemption of buildings under paragraph (10) of this section. District of Columbia v. Catholic Univ. of Am., App. D.C., 397 A.2d 915 (1979).

And building in process of alteration exempt. — Where the alteration of a school building is actually in progress, the building is exempt from taxation. District of Columbia v.

George Wash. Univ., 262 F.2d 36 (D.C. Cir. 1958).

Paragraph (11) of this section reflects an inability to derive suitable generalized language covering institutions, for the most part educational or scientific in nature, which are deserving of a tax-exempt status, while at the same time excluding those which, although capable of effectively pleading a scientific or educational character, are considered subject to taxation. District of Columbia v. National Parks Ass'n, 444 F.2d 963 (D.C. Cir. 1971).

Real estate owned by the National Medical Association ("NMA") — a nonprofit corporation with its national headquarters located in the District of Columbia — is not exempt from real property taxes. National Medical Ass'n v. District of Columbia, App. D.C., 611 A.2d 53 (1992).

House occupied by organization's president exempt. — Where a tax-exempt organization owns a house in which its president lives, and he pays no rent, the house is not subject to taxation. District of Columbia v. Brookings Inst., 254 F.2d 955 (D.C. Cir. 1958).

Exemption of "churches" from taxation refers to the building rather than the institution. Combined Congregations v. Dent, 140 F.2d 9 (D.C. Cir. 1943).

And concurrent ownership and use essential. — Under paragraph (13) of this section a concurrence of ownership and use is essential to the exemption. Trustees of Saint Paul Methodist Episcopal Church S. v. District of Columbia, 212 F.2d 244 (D.C. Cir. 1954); Bethel Pentecostal Tabernacle, Inc. v. District of Columbia, App. D.C., 106 A.2d 143 (1954).

But not belief in supreme being. — The belief in or teaching of a supreme being or supernatural power is not essential for the tax exemption accorded to "religious corporations," "churches," or "religious societies" under this section. Washington Ethical Soc'y v. District of Columbia, 249 F.2d 127 (D.C. Cir. 1957).

Building being prepared on tax day for use as church is not exempt. Bethel Pentecostal Tabernacle, Inc. v. District of Columbia, App. D.C., 106 A.2d 143 (1954).

Purpose of paragraph (14) of this section. — Congress enacted paragraph (14) of this section to provide a tax exemption to organizations with buildings which, by virtue of their use, could not be classified as churches, but which should nonetheless be exempt from the real property tax due to the character of the work carried on within. District of Columbia v. Maryland Synod of Lutheran Church, App. D.C., 307 A.2d 735 (1973).

Elements to be established. — To entitle property owned by a religious corporation to an exemption from taxation under paragraph (14) of this section, 2 elements must be established: (1) That the building belongs to a religious

corporation or society; and (2) that it is primarily and regularly used for religious worship, study, training, and missionary activities. *Calvary Baptist Church Extension Ass'n v. District of Columbia*, 158 F.2d 327 (D.C. Cir. 1946).

Taxing authority must classify grounds as "required" or "additional." — Paragraph (18) of this section requires that the taxing authority classify the grounds involved as either those "required" and used for actually carrying on the purposes of the institution, or as "additional grounds." *Simpson Mem. Methodist Church v. District of Columbia*, 199 F.2d 169 (D.C. Cir. 1952).

And tax imposed only on sale of additional grounds. — Under subparagraph (B) of paragraph (18) of this section, the tax to be imposed is only in relation to the sale of additional grounds. *Simpson Mem. Methodist Church v. District of Columbia*, 199 F.2d 169 (D.C. Cir. 1952).

Grounds acquired for and used for carrying on exempt activities. — Where there is no evidence in the record to support the conclusion that the vacant side yard has been put to any use whatsoever it is not entitled to tax exempt status under paragraph (18)(A)(i) of this section. *District of Columbia v. Trustees of Amherst College*, App. D.C., 515 A.2d 1115 (1986).

And income tax provision has no bearing on property tax. — The statute defining taxable income for income tax purposes has no bearing upon the imposition of a real property

tax upon the previously exempt additional grounds of a religious institution which have been sold at profit. *Simpson Mem. Methodist Church v. District of Columbia*, 199 F.2d 169 (D.C. Cir. 1952).

Parking lots and spaces exempt from taxation. — Parking lots owned by a university for the free use of its faculty members or employees are exempt from taxation. *District of Columbia v. George Washington Univ.*, 221 F.2d 87 (D.C. Cir. 1955).

Automobile parking spaces owned by a university and rented to students for a fee not shown to exceed the cost of operation are exempt from District realty taxation. *District of Columbia v. George Washington Univ.*, 243 F.2d 246 (D.C. Cir. 1957).

Lots adjacent to a church building used for the parking of the church members' automobiles during the services are entitled to an exemption. *District of Columbia v. Church of Pilgrims*, 247 F.2d 59 (D.C. Cir. 1957).

Cited in *District of Columbia v. American Pharmaceutical Ass'n*, 133 F.2d 43 (D.C. Cir. 1942); *Howard Univ. v. District of Columbia*, 155 F.2d 10 (D.C. Cir.), cert. denied, 329 U.S. 739, 67 S. Ct. 53, 91 L. Ed. 638 (1946); *District of Columbia v. Salvation Army*, 264 F.2d 371 (D.C. Cir. 1959); *District of Columbia v. Chevrah Tifereth Israel*, 280 F.2d 61 (D.D.C. 1960); *District of Columbia v. Linda Pollin Mem. Hous. Corp.*, App. D.C., 313 A.2d 579 (1973); *Washington Post Co. v. District of Columbia*, App. D.C., 596 A.2d 517 (1991).

§ 47-1003. Disabled American Veterans.

The property situated in square 153 in the City of Washington, District of Columbia, described as lot 132, owned, occupied, and used by the Disabled American Veterans, is hereby exempt from all taxation so long as the same is so owned and occupied, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (May 15, 1946, 60 Stat. 181, ch. 257, § 1; 1973 Ed., § 47-801a-1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 45-922.

§ 47-1004. National Society of the Colonial Dames of America.

The property in the District of Columbia described as lot no. 801, in square no. 1285, together with the improvements thereon, known as premises no. 2715 Q Street Northwest, and the furnishings therein, owned by the National Society of the Colonial Dames of America, a corporation organized and existing under the laws of the District of Columbia, shall be exempt from taxation, national and municipal, so long as the same is used for nonprofit purposes.

There shall also be exempt from taxation upon the same terms and conditions the adjoining property owned by the National Society of the Colonial Dames of America, now designated on the records of the Assessor of the District of Columbia as Lots 813 and 814 in Square 1285, together with any improvements which may hereafter be erected thereon by said National Society of the Colonial Dames of America. (Sept. 7, 1949, 63 Stat. 694, ch. 564; Aug. 3, 1968, 82 Stat. 634, Pub. L. 90-459, § 1; 1973 Ed., § 47-801a-2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 45-922.

Office of Assessor abolished. — See note to § 47-413.

§ 47-1005. Real property tax exemption.

If any building or any portion thereof, or grounds, belonging to and actually used by any institution or organization entitled to exemption under the provisions of §§ 47-1002 and 47-1007 to 47-1010 are used to secure a rent or income for any activity other than that for which exemption is granted, such building, or portion thereof, or grounds, shall be assessed and taxed. (Dec. 24, 1942, 56 Stat. 1091, ch. 826, § 2; 1973 Ed., § 47-801b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-1002, 47-1003, 47-1006, 47-1008 to 47-1010, 47-1010.1, and 47-1038 to 47-1044.

Jewish War Veterans, U.S.A. National Memorial, Incorporated. — Public Law 98-486 provided that certain property of the Jewish War Veterans, U.S.A. National Memorial, Incorporated, is exempt from taxation by the District of Columbia.

Real property tax exemption for downtown sports arena. — Section 3(a) of D.C. Law 10-189, the Arena Tax Amendment Act of 1994, effective September 28, 1994, provided that the portion of improvements on real property adjacent to square 455 in the District of Columbia, in preparation for, or under construction for, occupation and use or occupied

and used as a downtown sports arena shall be exempt from real property taxation.

Section 3(b) of D.C. Law 10-189 provided that the provisions of §§ 47-1005, 47-1007, and 47-1009 shall apply with respect to the improvements exempted by the section.

Section 4 of D.C. Law 10-189 provided for the application of the act. See note to § 47-2722.

Rental of rectory's rooms to cover expenses does not annul exemption. — The fact that a rector rents rooms in the rectory to persons other than his immediate family to help cover household expenses does not annul the exemption from real estate taxes. *District of Columbia v. Vestry of St. James Parish*, 153 F.2d 621 (D.C. Cir. 1946).

Cited in *Easter Seal Soc'y for Disabled Children v. Berry*, App. D.C., 627 A.2d 482 (1993).

§ 47-1006. Use of property by agencies of the United States or American Red Cross.

The use and occupancy of real property in the District of Columbia by any department, agency, or instrumentality of the United States of America, or by the American Red Cross, on a basis which does not result in the receipt of rent or income to the owner thereof within the meaning of § 47-1005, shall not operate to terminate the tax-exempt status of such property if exempted from taxation prior to such use and occupancy; and, further, that any taxes, penalties, or interest which may be due by reason of such change in the use and occupancy of such property and unpaid on November 30, 1945, shall be abated; provided, that nothing contained in this section shall be construed as autho-

rizing any refund of any taxes, penalties, or interest paid prior to November 30, 1945. (Nov. 30, 1945, 59 Stat. 589, ch. 501; 1973 Ed., § 47-801b-1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 45-922.

§ 47-1007. Real property tax exemption.

(a) Every institution, organization, corporation, or association owning property exempt under the provisions of paragraphs (4) to (20) of § 47-1002 shall, on or before March 1, 1943, and on or before March 1st of each succeeding year, furnish the Mayor a report, under oath, showing the purposes for which its exempt property has been used during the preceding calendar year; provided however, that the requirement for a report shall be satisfied by submitting an application for exemption from tax, and an income and expense statement pursuant to § 47-1002(20). Upon written application by the institution, organization, corporation, or association filed before March 1st of any year, the Mayor may extend the time for filing said report for a reasonable period. A copy of such report shall be forwarded to the Congress by the Mayor.

(b) If such report is not filed within the time provided herein, or as extended by the Mayor, the property of the institution, organization, corporation, or association affected shall immediately be assessed and taxed until the required report is filed; provided, however, that such tax shall be for a minimum period of 30 days. (Dec. 24, 1942, 56 Stat. 1091, ch. 826, § 3; 1973 Ed., § 47-801c; Oct. 4, 1978, D.C. Law 2-116, § 2, 25 DCR 1735; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-1002, 47-1003, 47-1005, 47-1008 to 47-1010, 47-1010.1, and 47-1038 to 47-1044.

Legislative history of Law 2-116. — See note to § 47-1002.

Jewish War Veterans, U.S.A. National Memorial, Incorporated. — Public Law 98-

486 provided that certain property of the Jewish War Veterans, U.S.A. National Memorial, Incorporated, is exempt from taxation by the District of Columbia.

Real property tax exemption for downtown sports arena. — See note to § 47-1005.

§ 47-1008. Abatement or refund of tax assessed against exempt property.

The Commissioner of the District of Columbia, upon written application by the owner of real property, filed within 90 days from December 24, 1942, is authorized to abate any tax assessed against any real property exempted by §§ 47-1002, 47-1005, and 47-1007 to 47-1010 where such tax was assessed after January 1, 1941, or to refund any such tax within the limitations of appropriations therefor. (Dec. 24, 1942, 56 Stat. 1091, ch. 826, § 4; 1973 Ed., § 47-801d; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-1002, 47-1005, 47-1009, and 47-1010.

Property taxes for United House of Prayer for All People forgiven. — Section 2 of D.C. Law 6-147 provided that all taxes,

penalties, fees, or other charges assessed against the United House of Prayer for All People on the real property located at 1100 through 1118 McCollough Court, N.W., Washington, D.C., in Square 449, Lot 59, also known

as the McCollough Paradise Gardens, for the period of July 1, 1983 to June 30, 1985, be forgiven and any payments already made be refunded.

§ 47-1009. Appeals from assessments.

(a)(1) Within 6 months after the date on which the Mayor mails written denial of an exemption under §§ 47-1002, 47-1005, and 47-1007 to 47-1010, any institution, organization, corporation, or association aggrieved by any assessment, classification, equalization, or valuation of real property deemed to be exempt from taxation under the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010 may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as is provided in §§ 47-3303 and 47-3304. Payment of the tax bill shall not be a prerequisite for the appeal.

(2) Approval of the assessment rolls described in § 47-825(g), shall not preclude the Mayor from making decisions on applications for exemptions filed before July 1st and pending before the Mayor at the time the assessment roll is approved, and all decisions in regard to the application shall be appealable as provided in paragraph (1) of this subsection.

(b)(1) Applications for exemption from the real property tax must be received on or before September 30 to obtain the exemption for the full tax year. If approved, the exemption will become effective as of October 1 of the tax year for which the exemption is granted.

(2) Effective October 1, 1994, and for each tax year thereafter:

(A) Any real property eligible for exemption from real property tax under § 47-1002 shall be exempt from real property tax as of the first month following the date on which a properly completed application has been filed. Real property tax shall be prorated on a monthly basis. The Mayor may prorate the real property tax to the date the property is eligible for an exemption from real property tax. Real property is eligible for an exemption from real property tax if it meets the requirements set forth in § 47-1002 and a properly completed application is filed with the Mayor.

(B) When real property exempt from real property tax, as provided for in this section, becomes ineligible for the exemption, the owner of the real property shall notify the Mayor (in a manner and at a time as the Mayor may prescribe by regulation) of the real property's ineligibility. The Mayor shall terminate the exemption effective as of the first full month following the date the property became ineligible for the exemption. (Dec. 24, 1942, 56 Stat. 1091, ch. 826, § 5; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 156(c); 1973 Ed., § 47-801e; Mar. 13, 1985, D.C. Law 5-130, § 2, 31 DCR 5199; Aug. 6, 1993, D.C. Law 10-11, § 107, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 107, 40 DCR 5489; June 14, 1994, D.C. Law 10-127, § 6, 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-1002, 47-1003, 47-1005, 47-1008, 47-1010, 47-1010.1, and 47-1038 to 47-1044.

Legislative history of Law 5-130. — Law 5-130, the “Real Property Tax Appellate Provisions Amendment Act of 1984,” was introduced in Council and assigned Bill No. 5-303, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 10, 1984 and September 12, 1984, respectively. Signed by the Mayor on October 1, 1984, it was assigned Act No. 5-183 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — Law 10-11, the “Omnibus Budget Support Temporary Act of 1993,” was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Legislative history of Law 10-127. — Law 10-127, the “Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-450, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 1, 1994, and March 22, 1994, respectively. Signed by the Mayor on April 13, 1994, it was assigned Act No. 10-221 and transmitted to both Houses of Congress for its review. D.C. Law 10-127 became effective on June 14, 1994.

Jewish War Veterans, U.S.A. National Memorial, Incorporated. — Public Law 98-486 provided that certain property of the Jewish War Veterans, U.S.A. National Memorial, Incorporated, is exempt from taxation by the District of Columbia.

Real property tax exemption for downtown sports arena. — See note to § 47-1005.

Exemption generally dependent on use. — Except in cases of absolute exemption, the tax exemption in each year is dependent on the use to which the property is put. *Workshop Ctr. of Arts v. District of Columbia*, App. D.C., 145 A.2d 571 (1958).

Specifically exempt educational institutions are excused from making application for tax-exempt status. Trustees of Nineteenth St. Baptist Church v. District of Columbia, App. D.C., 378 A.2d 661 (1977).

Congress intended this section's remedy to be an exclusive one for a review of an action of the assessing authorities. *Workshop Ctr. of Arts v. District of Columbia*, App. D.C., 145 A.2d 571 (1958).

Requirement regarding contesting assessment applies to tax-exempt property. — The requirement that a petition contesting an assessment of real property be filed “after payment of the tax” applies to tax-exempt property. *National Graduate Univ. v. District of Columbia*, App. D.C., 346 A.2d 740 (1975).

And taxpayer cannot toll appeal period by returning assessment notice. — A taxpayer cannot toll the running of the period within which to appeal an assessment by merely returning the notice of assessment. *Jewish War Veterans v. District of Columbia*, 243 F.2d 646 (D.C. Cir. 1957).

Cited in *Combined Congregations v. Dent*, 140 F.2d 9 (D.C. Cir. 1943); *Fellowship Found. v. District of Columbia*, 179 F.2d 56 (D.C. Cir. 1949).

§ 47-1010. Rules and regulations.

The Mayor is authorized to make and promulgate such rules and regulations as he may deem necessary to carry out the intent and purposes of §§ 47-1002, 47-1005, and 47-1007 to 47-1010; provided, that such rules and regulations shall include provision for mailing annually, on or before February 1st of each year, to each of the institutions, organizations, corporations, or associations required by § 47-1007 to file annual reports, notice of its contingent tax liability under §§ 47-1002, 47-1005, and 47-1007 to 47-1010, together with a copy of any standard form for such reports which shall have been prescribed by the Mayor of the District of Columbia under authority of this section. (Dec. 24, 1942, 56 Stat. 1091, ch. 826, § 6; Sept. 29, 1943, 57 Stat. 568, ch. 248; 1973 Ed., § 47-801f; Oct. 4, 1978, D.C. Law 2-116, § 2, 25 DCR 1735; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-1002, 47-1005, 47-1008, and 47-1009.

Legislative history of Law 2-116. — See note to § 47-1002.

Delegation of authority under Act to Define Real Property Exempt from Taxation in the District of Columbia. — See Mayor's Order 84-227, December 12, 1984.

§ 47-1010.1. Real property tax exemption.

(a) That portion of real property designated as Lots 37, 40, 824-825, 829-832, 859, 880-882, 887, 890, and 892 in Square 677 in the District of Columbia that is used to secure a rent or income from a tenant that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code of 1986 as an organization described in § 501(c)(3), (c)(4), (c)(5), or (c)(6) of the Internal Revenue Code of 1986, and that occupies space in the improvements, shall be afforded real property tax relief.

(b) That portion of real property designated as Lots 45, 49, 51, 834-842, 869-871, 883, 888-889, 891, 893, and 895-896 in Square 677 in the District of Columbia that is used to secure a rent or income from a tenant that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code of 1986 as an organization described in § 501(c)(3), (c)(4), (c)(5), or (c)(6) of the Internal Revenue Code of 1986, and that occupies space in the improvements, shall be afforded real property tax relief.

(c) Subject to the provisions of subsection (d) of this section, the real property tax relief granted by subsections (a) and (b) of this section shall apply only during the time that:

(1) The real property is owned by the Center for Public Administration and Service, Inc., or its successors or assigns; and

(2) The improvements to be constructed on either the land described in subsection (a) of this section or the land described in subsection (b) of this section are used as the headquarters of the Metropolitan Washington Council of Governments, the International City Management Association, and the International City Management Association Retirement Corporation.

(d) The real property tax relief granted by subsections (a) and (b) of this section shall consist of:

(1) An exemption from real property taxation from the date of acquisition of the land by the Center for Public Administration and Service, Inc., or its successors or assigns, until the completion of the fifth real property tax year beginning after the date of issuance of the final certificate of occupancy for the improvements to be constructed on the land; and

(2) A 50% reduction in the real property tax from the completion of the fifth real property tax year beginning after the date of issuance of the final certificate of occupancy for the improvements to be constructed on the land until the completion of the tenth real property tax year beginning after the date of issuance of the final certificate of occupancy.

(e) The provisions of §§ 47-1005, 47-1007, and 47-1009 shall apply with respect to the real property tax relief granted by this section.

(f) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this section. (Dec. 24, 1942, ch. 826, § 8, as added May 24, 1988, D.C. Law 7-125, § 2, 35 DCR 2878; July 26, 1989, D.C.

Law 8-17, § 11, 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-125. — Law 7-125, the “Center for Public Administration and Service, Inc., Real Property Tax Exemption Act of 1988,” was introduced in Council and assigned Bill No. 7-279, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first and second readings on March 1, 1988, March 15, 1988 and March 29, 1988, respectively. Signed by the Mayor on April 7, 1988, it was assigned Act No. 7-172 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — Law

8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

References in text. — Section 501 of the Internal Revenue Code of 1986, referred to in (a) and (b), is codified as 26 U.S.C. § 501.

§ 47-1011. Property of United States, District of Columbia, and foreign legations exempt from assessments for improvements.

No property except that of the United States or the District of Columbia and property owned by foreign governments for legation purposes shall be exempt from assessments for improvements. (Mar. 3, 1903, 32 Stat. 961, ch. 992; 1973 Ed., § 47-803; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessments for improvements of streets about Capitol, see § 47-1207.

§ 47-1012. Louise Home.

The buildings and grounds of the Louise Home, and all property held by the trustees thereof for the purposes of the trust contained in a certain deed from William W. Corcoran dated November 21, 1869, and recorded in liber 630 at folio 458 of the land records of the District of Columbia, on the square no. 166 shall be free from all taxes and assessment by the municipal authorities, or by the United States, so long as the same shall be held and used for the purposes of the said trust. (Mar. 3, 1875, 18 Stat. 508, ch. 168, § 2; 1973 Ed., § 47-805; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1013. Sheridan tapestries.

No personal taxes shall be levied against certain tapestries, which were presented to the late Lieutenant-General Philip H. Sheridan for gallant and meritorious services, and which were on exhibition in the National Museum on April 27, 1904, so long as they are exhibited in said Museum. (Apr. 27, 1904, 33 Stat. 364, ch. 1628; 1973 Ed., § 47-806; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1014. Chesapeake and Ohio Canal.

For and in consideration of the expenses the said stockholders will be at, not only in cutting the Chesapeake and Ohio Canal, erecting locks and dams, providing aqueducts, feeders, and other works, and in improving and keeping the same in repair, the said Canal and all other works aforesaid, or required to improve the navigation thereof, at any time hereafter, with all their profits, subject to the limitations herein provided, and to none other, shall be, and the same are hereby, vested in the said stockholders, their heirs and assigns, forever, as tenants in common, in proportion to their respective shares, and be forever exempt from the payment of any tax, imposition, or assessment whatsoever. (General Assembly of Virginia, Jan. 27, 1824; 4 Stat. 796, Appendix I, § 9; Mar. 3, 1825, 4 Stat. 101, ch. 52; 1973 Ed., § 47-807; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Chesapeake and Ohio Canal Company does not own or possess riparian rights along the line of its Canal within the limits of the City of Washington. *Morris v. United States*, 174 U.S. 196, 19 S. Ct. 649, 43 L. Ed. 946 (1899).

General creditor has notice of charter. — A general creditor of the Chesapeake and Ohio Canal Company has notice of the statute granting the Company its charter. *MacAlester's Adm'r v. Maryland*, 114 U.S. 598, 5 S. Ct. 1065, 29 L. Ed. 233 (1885).

Forfeiture established only by public authorities and proper tribunal. — The question of a forfeiture by a nonuser can be established only by a direct proceeding on the part of the public authorities and a decision to that effect in a proper tribunal. *Mackall v. C & O Canal Co.*, 94 U.S. 308, 24 L. Ed. 161 (1877).

Cited in *Bauman v. Ross*, 167 U.S. 548, 17 S. Ct. 966, 42 L. Ed. 270 (1897).

§ 47-1015. Oak Hill Cemetery Company.

The property owned by The Oak Hill Cemetery Company shall be forever inalienable by the said corporation, and shall be exempted from all public assessments and taxes so long as the same shall remain dedicated to the purposes of a cemetery. (Mar. 3, 1849, 9 Stat. 775, ch. 128, § 10; 1973 Ed., § 47-808; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1016. Corcoran Gallery of Art — Real property and works of art.

The buildings described in a certain deed from William W. Corcoran to the trustees of the Corcoran Gallery of Art, dated May 10, 1869, and recorded May 18, 1869, in liber D, no. 8, folio 294 et seq., one of the land records of Washington County, District of Columbia, and the grounds connected therewith, together with all of the works of art that may be contained therein, shall be free from all taxes and assessments by the municipal authorities, or by the United States, so long as the same shall be held and used for the purposes set forth in said deed. (May 24, 1870, 16 Stat. 139, ch. 111, § 4; 1973 Ed., § 47-809; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1017. Same — Endowment fund.

All property held as endowment fund by the trustees of the Corcoran Gallery of Art, in the City of Washington, District of Columbia, for the purpose of revenue to support said institution, shall be, and the same is hereby, declared exempt from all taxation and assessments by the municipal authorities or by the United States so long as the same shall be so held. (Jan. 26, 1887, 24 Stat. 364, ch. 43; 1973 Ed., § 47-810; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1018. Howard University.

The property, real and personal, of the Howard University shall be exempt from taxation so long as such property shall be used only for the purposes set forth in the charter of said institution; provided, that nothing in this section shall exempt any real estate of said University from assessment and liability for special improvements authorized by law; provided also, that this section shall not include any real estate sold or contracted to be sold by said University to any other person than the United States, the title to which may be still in the said University. (June 16, 1882, 22 Stat. 105, ch. 222, § 3; 1973 Ed., § 47-811; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Specifically exempt educational institutions are excused from making application for tax-exempt status. Trustees of Nineteenth St. Baptist Church v. District of Columbia, App. D.C., 378 A.2d 661 (1977).

Cited in Howard Univ. v. District of Columbia, 155 F.2d 10 (D.C. Cir.), cert. denied, 329 U.S. 739, 67 S. Ct. 53, 91 L. Ed. 638 (1946).

§ 47-1019. Luther Statue Association.

The lands acquired and held by the Luther Statue Association, and the statue erected thereon, and all the improvements and appurtenances thereto, shall be entirely exempt from taxation, and shall not be chargeable or assessed for any purpose whatever; provided, that this section may be modified, repealed or amended, whenever Congress may see fit to do so. (Mar. 3, 1885, 23 Stat. 350, ch. 334, § 4; 1973 Ed., § 47-812; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1020. Saint Mark's Protestant Episcopal Church.

A certain piece of land situated in the City of Washington, District of Columbia, known as lots 9 and 11, in square 788 of the plan of that City, and occupied by the church known as Saint Mark's Protestant Episcopal Church, and all the buildings, grounds, and property appurtenant thereto and used in connection therewith in the District of Columbia, shall be exempt from any and all taxes or assessments, national, municipal, or county. (Feb. 23, 1887, 24 Stat. 411, ch. 214; 1973 Ed., § 47-813; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1021. Young Women's Christian Home.

The property, whether real or personal, owned by the trustees of Young Women's Christian Home and used exclusively for the charitable purposes of said organization shall be exempt from taxation. (Feb. 23, 1887, 24 Stat. 413, ch. 217, § 2; 1973 Ed., § 47-814; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1022. Young Women's Christian Association — Property.

All property of the Young Women's Christian Association of the District of Columbia located in the District of Columbia and occupied and used by such Association for its legitimate purposes shall be exempt from all national and municipal taxation so long as such property is so occupied and used. (June 16, 1938, 52 Stat. 709, ch. 461, § 1; 1973 Ed., § 47-815; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1023. Same — Accrued liability.

The Young Women's Christian Association of the District of Columbia is hereby relieved from any accrued liability to the United States or the District of Columbia for taxes imposed upon any of the property of such Association located in the District of Columbia for any tax period during which such property was occupied and used by such Association for its legitimate purposes. (June 16, 1938, 52 Stat. 709, ch. 461, § 2; 1973 Ed., § 47-816; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1024. Young Men's Christian Association.

All property belonging to the Young Men's Christian Association of the District of Columbia, used and occupied by that Association, shall, so long as the same is so owned and occupied, be exempt from taxation, national and municipal; provided, that where ground of said Association is larger than is reasonably required for its use, or is not actually used for the legitimate purposes of said Association, or if said ground or buildings shall be used for private gain, such portion of said ground or buildings as shall not actually be used for the purposes of said Association, or from which it derives a rent or income, such portion of the same, or a sum equal in value to such portion, shall be taxed against such Association. (Aug. 6, 1894, 28 Stat. 999, ch. 230; 1973 Ed., § 47-817; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1025. Cedar Hill.

When the Frederick Douglass Memorial and Historical Association shall have acquired title in fee simple to the whole or a part, as the case may be, of the property known as Cedar Hill, in the Village of Anacostia, in the District of Columbia, and formerly occupied as the homestead of the late Frederick

Douglass, said land and premises shall be, and hereby are declared to be, exempt from all taxes and assessments for taxation so long as the same shall be used for the purposes of this incorporation. Congress reserves the right to amend or repeal this section. (June 6, 1900, 31 Stat. 663, ch. 806, §§ 7, 8; 1973 Ed., § 47-818; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1026. Edes Home.

The property held by the Edes Home actually and exclusively used and occupied for a home for aged and indigent widows shall while and as long as so actually and exclusively used and occupied, be free from any tax, burden, or assessment, laid or to be laid by the United States or under any authority emanating therefrom. This section shall be and remain at all times subject to repeal, alteration, or amendment by the Congress of the United States. (May 1, 1906, 34 Stat. 162, 163, ch. 2075, §§ 2, 6; 1973 Ed., § 47-819; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1027. General Education Board.

(a) All real property of the General Education Board within the District of Columbia which shall be used by the corporation for the educational or other purposes of the corporation as aforesaid, other than the purpose of producing income, and all personal property and funds of the corporation held, used, or invested for educational purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation; provided, however, that this exemption shall not apply to any property of the corporation which shall not be used for, or the income of which shall not be applied to, the educational purposes of the corporation; and provided further, that the corporation shall annually file with the Secretary of the Interior of the United States a report in writing, stating in detail the property, real and personal, held by the corporation, and the expenditure or other use or disposition of the same or the income thereof during the preceding year.

(b) This section shall be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States. (Jan. 12, 1903, 32 Stat. 769, ch. 91, §§ 6, 7; 1973 Ed., § 47-820; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1028. Daughters of American Revolution — Lots 8, 9, and 10, square 173.

The property situated in square no. 173 in the City of Washington, District of Columbia, described as lots 8, 9, and 10, inclusive, occupied by the Daughters of the American Revolution, is hereby exempt hereafter (May 21, 1924) from all taxes, so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for exemptions of church and school property, and acts amendatory thereof. (May 21, 1924, 43 Stat. 135, ch. 163; 1973 Ed., § 47-821; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1029. Same — Square 173.

That the property situated in square no. 173, in Washington City, District of Columbia, occupied on February 27, 1903, by the Daughters of the American Revolution is hereby exempt from all taxation so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for exemptions of church and school property, and acts amendatory thereof. (Feb. 27, 1903, 32 Stat. 907, ch. 852; 1973 Ed., § 47-822; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1030. Same — Same — Lots 12, 13, 14, 15, and 16.

The property situated in square 173 in the City of Washington, District of Columbia, described as lots 12, 13, 14, 15, and 16, inclusive, occupied by the Daughters of the American Revolution, is exempt from and after February 28, 1921, from all taxation so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for exemptions of church and school property, and acts amendatory thereof. (Sept. 16, 1922, 42 Stat. 846, ch. 319; 1973 Ed., § 47-823; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1031. Same — Same — Lots 23, 24, 25, 26, 27, and 28.

The property situated in square 173 in the City of Washington, District of Columbia, described as lots 23, 24, 25, 26, 27, and 28, inclusive, occupied by the Daughters of the American Revolution, is hereby exempt from all taxation so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for exemptions of church and school property, and acts amendatory thereof. (Aug. 15, 1916, 39 Stat. 514, ch. 342; 1973 Ed., § 47-824; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1032. Same — Same — Lots 4, 5, 6, 7, and 11.

The property situated in square 173 in the City of Washington, District of Columbia, described as lots 4, 5, 6, 7, and 11, inclusive, occupied by the Daughters of the American Revolution, is hereby exempt from and after February 23, 1916, from all taxation so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for exemptions of church and school property, and acts amendatory thereof. (Mar. 3, 1917, 39 Stat. 1009, ch. 160; 1973 Ed., § 47-825; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1033. National Society United States Daughters of 1812; lot 811, square 210.

The property situated in square no. 210 in the City of Washington, District of Columbia, described as lot 811, occupied and used by the National Society United States Daughters of 1812, is hereby exempt from all taxation so long as the same is so occupied and used, subject to the provisions of § 47-1002,

providing for exemptions of church and school property. (June 4, 1934, 48 Stat. 836, ch. 376; 1973 Ed., § 47-826; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1034. National Society of the Sons of the American Revolution.

All property, real and personal, belonging to or held by the National Society of the Sons of the American Revolution in the District of Columbia, used, and occupied by that Society for its purposes, so long as the same is so owned, used, and occupied, is exempt from taxation, national and municipal. (June 16, 1934, 48 Stat. 972, ch. 547; Oct. 25, 1949, 63 Stat. 888, ch. 709, § 1; 1973 Ed., § 47-827; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1035. The American Legion; lots 32 and 33, square 185.

The property situated in square 185 in the City of Washington, District of Columbia, described as lots 32 and 33, owned, occupied, and used by the American Legion, is hereby exempt from all taxation so long as the same is so owned and occupied, and not used for commercial purposes, subject to the provisions of § 47-1002, providing for exemptions of church and school property. (June 13, 1934, 48 Stat. 953, ch. 493; 1973 Ed., § 47-828; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary amendment of section, see § 2 of the Kenneth H. Nash Post #8 American Legion

Real Property Tax Exemption Relief Emergency Act of 1996 (D.C. Act 11-477, January 9, 1997, 44 DCR 622).

§ 47-1036. National Education Association.

All real property of the National Education Association of the United States within the District of Columbia, which shall be used by the corporation for the educational or other purposes of the corporation, other than the purpose of producing income, and all personal property and funds of the corporation, held, used, or invested for educational purposes aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation; provided, however, that this exemption shall not apply to any property of the corporation which shall not be used for or the income of which shall not be applied to the educational purposes of the corporation. Congress may from time to time alter, repeal, or modify this section, but no contract or individual rights made or acquired shall thereby be divested or impaired. (June 30, 1906, 34 Stat. 805, 808, ch. 3929, §§ 4, 11; 1973 Ed., § 47-829; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1037. Society of the Cincinnati; lots 42, 43, 49, and part of lot 5, square 67.

The property situated in square no. 67 in the City of Washington, District of Columbia, described as lot no. 42, as per plat recorded in the Office of the Surveyor for the District of Columbia, in liber 27 at folio 135; lot no. 43, as per plat recorded in said Surveyor's office in liber 28 at folio 25; lot no. 49 as per plat recorded in said Surveyor's office in liber 40 at folio 15; and part of original lot no. 5 described as follows: beginning for the same at the northeast corner of said lot and running thence west along the south line of a public alley 30 feet wide 47 and seventeen one-hundredths feet to the east line of another public alley, 30 feet wide; thence south along the east line of said alley 74 feet; thence east 47 and seventeen one-hundredths feet to the west line of a public alley 15 feet wide; thence north along the west line of said alley 74 feet to the place of beginning; occupied by the Society of the Cincinnati, a corporation of the District of Columbia, with all the buildings and improvements thereon, and the contents thereof are hereby exempt from all taxes so long as the same is so occupied and used, subject to the provisions of § 47-1002, providing for the exemption of church and school property, subject to the proviso that said Society shall maintain therein a national museum for the custody and preservation of historical documents, relics, and archives, especially those pertaining to the American Revolution, which museum shall be accessible to the public at such reasonable hours and under such regulations as may, from time to time, be prescribed by said Society; and subject to the further proviso that if any part of said property is sold, then the exemption as to said part and said part only shall determine and if any part of said property is leased then the exemption shall cease for so long and so long only as said part is so leased. This exemption to become effective on February 24, 1938. (Feb. 24, 1938, 52 Stat. 81, ch. 35; 1973 Ed., § 47-830; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1038. American Veterans of World War II; lot 805, square 160.

The property situated in square 160 in the City of Washington, District of Columbia, described as lot 805, owned, occupied, and used by the AMVETS, American Veterans of World War II, is hereby exempt from all taxation so long as the same is so owned and occupied, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (June 28, 1952, 66 Stat. 285, ch. 484, § 1; 1973 Ed., § 47-831; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1039. Veterans of Foreign Wars; lots 38, 20, 19, and 841, square 757.

The property situated in square 757 in the City of Washington, District of Columbia, described as lots 38, 20, 19, and 841 owned by the Veterans of

Foreign Wars of the United States, is hereby exempt with respect to taxable years beginning on and after July 1, 1959, from all taxation so long as the same is owned and occupied by the Veterans of Foreign Wars of the United States and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (July 19, 1954, 68 Stat. 493, ch. 543, § 1; Sept. 21, 1959, 73 Stat. 599, Pub. L. 86-333, § 1; Apr. 22, 1960, 74 Stat. 68, Pub. L. 86-430, § 1; 1973 Ed., § 47-832; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1040. National Woman's Party; lots 863, 864, and 885, square 725.

Certain property in the District of Columbia, known in the 1600's and 1700's as Cerne Abbey Manor; later the property of members of the distinguished Carroll and Sewall families, still later the office and residence of Albert Gallatin, Secretary of the Treasury, 1801-1813, who here directed the financing of the Louisiana Purchase; since 1929 the headquarters of the National Woman's Party and known as the Alva Belmont House, described as lots nos. 863, 864, and 885 in square no. 725, together with improvements thereon and outbuildings, and the furniture, furnishings, and other personal property therein, owned by the National Woman's Party, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia; shall be exempt from taxation, in recognition of the patriotic efforts made by the National Woman's Party, Inc., to preserve this historic monument, so long as the same property is owned by said National Woman's Party, Inc., and is not used for commercial purposes or for the purpose of securing a rent or income, subject to the proviso that said corporation shall maintain the said property as historical buildings which shall be preserved for their architectural, historical, and educational significance, which buildings shall be accessible to members of the general public without charge or payment of a fee of any kind at such reasonable hours and under such regulations as may from time to time be prescribed by said corporation, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (Sept. 6, 1960, 74 Stat. 791, Pub. L. 86-706, § 1; 1973 Ed., § 47-833; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1041. American Association of University Women; lot 84, square 197.

The real estate described for assessment and taxation purposes as lot 84 in square 197, in the City of Washington, District of Columbia, owned by the American Association of University Women, Educational Foundation, Incorporated, a District of Columbia corporation, is hereby exempt from all taxation so long as the same is owned, occupied, and used by the American Association of University Women, Educational Foundation, Incorporated, for its educational and other corporate purposes, or is jointly occupied with the American Association of University Women, a Massachusetts corporation organized not for profit, for its educational and other corporate purposes, and is not used for

commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (Sept. 6, 1960, 74 Stat. 807, Pub. L. 86-709, § 1; 1973 Ed., § 47-834; May 1, 1990, D.C. Law 8-110, § 2, 37 DCR 1629; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-110. — Law 8-110, the “American Association of University Women Educational Foundation Real Property Tax Exemption Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-440. The Bill was adopted on first and second

readings on January 30, 1990, and February 13, 1990, respectively. Signed by the Mayor on February 28, 1990, it was assigned Act No. 8-164 and transmitted to both Houses of Congress for its review. D.C. Law 8-110 became effective on May 1, 1990.

§ 47-1042. National Guard Association; lot 60, square 625.

The property situated in square 625 in the City of Washington, District of Columbia, described as lot 60, together with the improvements thereon, owned by the President, Vice-President, Secretary, and Treasurer of the National Guard Association of the United States, as trustees and in trust for the use and benefit of the National Guard Association of the United States, a voluntary unincorporated association with principal headquarters in the District of Columbia, is hereby exempt from all taxation from and after July 1, 1961, so long as the same is owned by the President, Vice-President, Secretary, and Treasurer of the National Guard Association of the United States, as trustees and in trust for the use and benefit of the National Guard Association of the United States and occupied by the National Guard Association of the United States, is used solely for the purposes of said Association, and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. (Sept. 8, 1960, 74 Stat. 856, Pub. L. 86-727; 1973 Ed., § 47-835; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1043. Woodrow Wilson House.

Certain property in the District of Columbia described as lots no. 36 and 37 in square no. 2,517, as recorded in the Office of the Surveyor of the District of Columbia in liber 64, at folio 69, together with the improvements thereon and the furnishings therein, being premises no. 2340 S Street Northwest, known as the Woodrow Wilson House, owned by the National Trust for Historic Preservation in the United States, a corporation chartered by Act of Congress approved October 26, 1949, be exempt from all taxation, so long as the same is used in carrying on the purposes and activities of the National Trust for Historic Preservation in the United States, and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. Use of the premises by agencies of the United States of America or by any organization exempt from federal income taxation for museum purposes or conference accommodations shall not affect the exemption from taxation provided for herein. (Aug. 21, 1964, 78 Stat. 581, Pub. L. 88-470, § 1; 1973 Ed., § 47-836; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1044. American Institute of Architects Foundation.

(a) Subject to the provisions of subsection (b) of this section, the following property in the District of Columbia owned by the American Institute of Architectural Foundation, Incorporated, a nonprofit corporation organized and existing under the laws of the State of New York, shall be exempt from taxation by the District of Columbia:

(1) The real property (including the improvements thereon known as the Octagon House) which is described as lot 36 in square 170; and

(2) The furniture, furnishings, and other personal property located in any improvements on such real property.

(b)(1) The property described in subsection (a) of this section shall be exempt from taxation by the District of Columbia so long as:

(A) That property is owned by the Foundation referred to in subsection (a) of this section and is used in carrying on its purposes and activities, except as provided in subparagraph (B)(ii) of this paragraph, and is not used for any commercial purposes; and

(B) The Octagon House is:

(i) Maintained by that Foundation as a historical building to be preserved for its architectural and historical significance; and

(ii) Accessible to the general public for payment of a reasonable fee at such reasonable hours and under such regulations as may, from time to time, be prescribed by that Foundation.

(2) The provisions of § 47-1005 shall apply with respect to the property made exempt from taxation by this section, and the Foundation shall make the reports required by § 47-1007 and shall have the appeal rights provided by § 47-1009.

(c) This section shall apply with respect to taxable years beginning after June 30, 1969. (Jan. 5, 1971, 84 Stat. 1933, Pub. L. 91-650, title II, § 203; 1973 Ed., § 47-837; Aug. 17, 1994, D.C. Law 10-148, § 2, 41 DCR 4483; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-148. — Law 10-148, the “American Architectural Foundation Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-550, which was referred to the Committee of the Whole. The Bill was adopted on first and second read-

ings on May 3, 1994, and June 7, 1994, respectively. Signed by the Mayor on June 23, 1994, it was assigned Act No. 10-261 and transmitted to both Houses of Congress for its review. D.C. Law 10-148 became effective on August 17, 1994.

CHAPTER 11. FAMILY DWELLINGS OCCUPIED BY OWNERS.

Sec.	Sec.
47-1101. Taxes and assessments — Annual statement to owner; instalment payments; interest.	47-1103. Same — Delinquency sale — Required notice.
47-1102. Same — Extension of time of payment.	47-1104. Same — Same — Invalidity.
	47-1105. Applicability of chapter.

§ 47-1101. Taxes and assessments — Annual statement to owner; instalment payments; interest.

Each fiscal year, commencing with the fiscal year ending June 30, 1934, the Assessor of the District of Columbia shall send to the owner of each family dwelling house occupied by such owner upon written application therefor an itemized statement of the taxes payable with respect to such dwelling house not less than 30 days prior to the time when the first instalment of real estate taxes for such fiscal year becomes due and payable. Such statement shall include all real estate taxes which are due and payable in such fiscal year and all instalments of special assessments which have been levied, charged, or assessed prior to, and are due and payable in, such fiscal year, with respect to the family dwelling house occupied by the owner. Such taxes and assessments shall be payable, at the election of the taxpayer, in 4 equal instalments, in the months of September, December, March, and June, and no interest shall be payable with respect to any such instalment unless it is unpaid after the time it is due. Any real estate tax or special assessment or any instalment thereof with respect to any family dwelling house occupied by the owner thereof not included in such statement shall not be due or payable during the fiscal year for which the statement is sent; and any such tax or assessment or any instalment thereof otherwise chargeable, assessable, or payable during such fiscal year shall be included in the statement for the next succeeding fiscal year. (Feb. 28, 1933, 47 Stat. 1347, ch. 130, § 1; 1973 Ed., § 47-901; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Assessor abolished. — See note to § 47-413.

Cited in *Boddie v. Robinson*, App. D.C., 430 A.2d 519 (1981).

§ 47-1102. Same — Extension of time of payment.

The Collector of Taxes of the District of Columbia shall extend the time for the payments of real estate taxes and special assessments payable after January 1, 1933, on any family dwelling house occupied by the owner thereof, or any instalment of such taxes or assessments, for not more than 90 days, if written application for such extension is filed with the Collector before such taxes or instalment thereof are due. Such extension shall be granted only if, in the judgment of the Collector of Taxes, satisfactory evidence is presented by the owner that, through unemployment or other emergency, the owner is unable to make such payment. No such application shall be granted unless the application is accompanied by the payment, to the Collector, of interest at the rate of 6% per annum on the amount of the taxes or assessments or

instalments thereof for the time of the extension applied for. In any case in which the amount of the tax or assessment or instalment due is paid prior to the expiration of the period of the extension there shall be deducted from the amount payable an amount equal to such part of the interest payable with respect thereto as represents the unexpired portion of the period of the extension. (Feb. 28, 1933, 47 Stat. 1348, ch. 130, § 2; 1973 Ed., § 47-902; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-1103. Same — Delinquency sale — Required notice.

No family dwelling house occupied by the owner thereof shall be sold for delinquent personal or real estate taxes or special assessments unless notice has been personally served upon such owner or sent by registered mail, addressed to him at such dwelling house, not less than 30 days prior to the date of such sale. (Feb. 28, 1933, 47 Stat. 1348, ch. 130, § 3; 1973 Ed., § 47-903; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cited in Robinson v. Kerwin, App. D.C., 454 A.2d 1302 (1982).

§ 47-1104. Same — Same — Invalidity.

No sale for delinquent personal or real estate taxes or special assessments with respect to a family dwelling house owned by the occupier thereof shall be valid if such sale is in consequence of an error or omission in the computation of the amount of taxes due thereon. (Feb. 28, 1933, 47 Stat. 1348, ch. 130, § 4; 1973 Ed., § 47-904; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1105. Applicability of chapter.

This chapter shall be deemed as applying only to such occupant and owner as shall have filed with the Assessor of the District of Columbia an affidavit as to domicile and ownership. The form of the affidavit shall be prepared by the Assessor of the District of Columbia, and shall show the beginning of domicile, the time when ownership began, the street number, the number of the square and lot, and all trusts, if any, against the property. (Feb. 28, 1933, 47 Stat. 1348, ch. 130, § 6; 1973 Ed., § 47-905; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Assessor abolished. — See note to § 47-413.

Cited in Boddie v. Robinson, App. D.C., 430

A.2d 519 (1981); Robinson v. Kerwin, App. D.C., 454 A.2d 1302 (1982).

CHAPTER 12. SPECIAL ASSESSMENTS.

Sec.	Sec.
47-1201. Public improvements generally — Protest by aggrieved property owner.	47-1204. Condemnation proceedings; payment; interest; delinquency sale.
47-1202. Same — Power of Mayor to abate, reduce, or adjust.	47-1205. Removal of nuisances; payment; interest; delinquency sale; redemption.
47-1202.1. Deferral or forgiveness of special assessments.	47-1206. Power and duty of Mayor to reassess.
47-1203. Same — Notice of levying; payment; interest; delinquency sale.	47-1207. Improvements of streets about the Capitol.

§ 47-1201. Public improvements generally — Protest by aggrieved property owner.

Any property owner aggrieved by any special assessment levied by the District of Columbia for any public improvement, other than a special assessment levied by a jury in a condemnation proceeding, may, within 60 days after service of notice of such assessment as provided in § 47-1203, file with the Mayor of the District of Columbia a protest in writing against such assessment setting forth specifically the grounds of such protest and may request a hearing thereon. No ground of protest not specifically set forth need be considered by the Mayor. If a hearing is requested the same shall be held, in the discretion of the Mayor, either before him or before 1 or more agents designated by him. At such hearing, physical facts which may be ascertained by view may be considered whether proved or not. If the hearing is held before an agent or agents, such agent or agents shall report in writing to the Mayor the substance of the evidence taken and the arguments made at the hearing, together with the findings (which may include a statement of any physical facts not proved at the hearing but which may be ascertained by view) and the recommendations of such agent or agents. A copy of such report, findings, and recommendations shall be mailed to the protestant 10 days before being presented to the Mayor, and the protestant may, before such report, findings, and recommendations are presented to the Mayor, file with such agent or agents exceptions to such report and findings, which exceptions shall be presented to the Mayor with such report, findings, and recommendations. If the Mayor finds that the property of the owner so protesting is not benefited by the improvement for which said assessment is levied, or is benefited less than the amount of such assessment or is unequally or inequitably assessed with relation to other property abutting such improvement, the Mayor shall abate, reduce, or adjust such assessment in accordance with such findings. In computing the time hereinafter provided in which a special assessment may be paid without interest there shall be excluded therefrom the time between the date of the filing of any such protest and the date of mailing notice of the action thereon by the Mayor. This section shall be effective only as to assessments levied for work completed subsequent to the passage and approval of §§ 47-1201 to 47-1206. (June 25, 1938, 52 Stat. 1198, ch. 702, § 1; 1973 Ed., § 47-1101; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessments for street, sidewalk and sewer construction and repair and water connections, see §§ 7-607, 7-609, 7-611 to 7-613, and 7-627 to 7-639.

As to assessments for laying water mains and sewers, see §§ 43-1512 to 43-1520.

As to disposition of the fees collected by District, see § 47-127.

As to payment of special assessments, see § 47-832.

As to redistribution of assessments, see §§ 47-833 to 47-835.

As to property which is exempt from assessments for improvements, see § 47-1011.

As to payment of assessments on family dwellings, see § 47-1101 et seq.

As to assessments for improvements of streets about Capitol, see § 47-1207.

As to payment of real estate and personal property taxes, see § 47-1509.

Section references. — This section is referred to in §§ 47-1203 and 47-1204.

Assessment under the front-foot rule may be invalid. Willner v. Hazen, 111 F.2d 511 (D.C. Cir. 1940).

Cited in Paton v. District of Columbia, App. D.C., 180 A.2d 844 (1962).

§ 47-1202. Same — Power of Mayor to abate, reduce, or adjust.

The Mayor of the District of Columbia is authorized, but not directed, whenever in his judgment and discretion any property upon which a special assessment has been levied by the District of Columbia is not benefited by the improvement for which such special assessment was levied, or is benefited less than the amount of such assessment, or is unequally or inequitably assessed with relation to other property abutting such improvement, to abate, reduce, or adjust such assessment in accordance with such finding. This section shall not apply to any assessment levied by a jury in a condemnation proceeding, or to any assessment levied for work completed subsequent to June 25, 1938, or to any assessment levied under §§ 7-627 to 7-637; provided, however, that nothing in this section shall be construed as affecting protests filed under the provisions of §§ 7-627 to 7-639 within the time prescribed in said sections. (June 25, 1938, 52 Stat. 1199, ch. 702, § 2; 1973 Ed., § 47-1102; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1201, 47-1203, and 47-1204.

§ 47-1202.1. Deferral or forgiveness of special assessments.

The Mayor may defer or forgive, in whole or in part, any special assessment levied by the District of Columbia with respect to any qualified real property approved pursuant to § 5-1403. (June 25, 1938, ch. 702, § 2a; 1973 Ed., § 47-1102; as added Oct. 20, 1988, D.C. Law 7-177, § 7, 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1201 and 47-1203.

Legislative history of Law 7-177. — Law 7-177, the "Economic Development Zone Incentives Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-208, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12,

1988, respectively. Signed by the Mayor on August 2, 1988, it was assigned Act No. 7-237 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

§ 47-1203. Same — Notice of levying; payment; interest; delinquency sale.

(a)(1) When any special assessment for a public improvement, with the exception of assessments levied in condemnation proceedings, is levied by the District of Columbia upon any lot or parcel of land, notice of the levying of such assessment shall be served upon the record owner thereof in the manner herein provided, and if there be more than 1 record owner of such lot or parcel of land notice served on one of the owners shall be sufficient. Such notice shall be deemed to have been served when served by any of the following methods:

(A) When forwarded to the last-known address of the owner as recorded in the real estate assessment records of the District of Columbia by registered or certified mail, with return receipt, and such receipt shall constitute prima facie evidence of service upon such owner if such receipt is signed either by the owner or by a person of suitable age and discretion located at such address; provided, that valid service upon the owner shall be deemed effected under this subparagraph if such notice shall be refused by the owner and not delivered for that reason;

(B) When delivered to the person to be notified;

(C) When left at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein;

(D) If no such residence or place of business can be found in the District of Columbia by diligent search, then if left with any person of suitable age and discretion employed at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or tenement to which said notice relates;

(E) If any such notice forwarded by registered or certified mail be returned for reasons other than refusal, or if personal service of such notice cannot be effected, then if published on 3 consecutive days in a daily newspaper published in the District of Columbia; or

(F) If by reason of an outstanding unrecorded transfer of title the name of the owner cannot, by diligent search, be ascertained, then if served on the owner of a record in a manner hereinbefore provided.

(2) Any notice to a corporation shall, for the purposes of §§ 47-1201 to 47-1206, be deemed to have been served on such corporation if served on the president, secretary, treasurer, general manager, or any principal officer of such corporation in a manner hereinbefore provided for the service of notices on natural persons holding property in their own right; and notices to a foreign corporation shall, for the purposes of §§ 47-1201 to 47-1206, be deemed to have been served if served personally on any agent of such corporation, or if left with any person of suitable age and discretion residing at the usual residence or employed at the usual place of business of such agent in the District of Columbia. The cost of publication, if any, shall be paid out of the general revenues of the District. The notice herein provided for shall be in lieu of any and all other notice now required by law.

(3) In case such notice is served by any method other than personal service, a copy of such notice shall also be sent to the owner by ordinary mail.

(b)(1) All special assessments authorized to be levied by the District of Columbia for public improvements, with the exception of assessments levied in condemnation proceedings, may be paid without interest within 60 days from the date of service of notice or of the last publication of notice as the case may be. Interest of one-half of 1% for each month or part thereof shall be charged on all unpaid amounts from the expiration of 60 days from the date of service or last publication as the case may be. Any such assessment may be paid in 3 equal installments with interest thereon. If any such assessment or any part thereof shall remain unpaid after the expiration of 2 years from date of service of notice or last publication of notice as the case may be, the property against which said assessment was levied may be sold for such assessment or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301, in the same manner and under the same conditions as property sold for delinquent general taxes, if said assessment with interest and penalties thereon shall not have been paid in full prior to said sale.

(2) This subsection shall apply only to assessments for public improvements completed subsequent to June 25, 1938, and assessments for public improvements completed on or before June 25, 1938, shall be levied and collected and bear interest as if §§ 47-1201 to 47-1206 had not been passed, except that where service sewers or water mains, or both, have been laid prior to June 25, 1938, but assessments therefor have not been levied for the reason that the property abutting the street, avenue, road, or alley in which the service sewer or water main is laid has not been subdivided, assessments for such sewers or water mains, or both, levied after June 25, 1938, because of the subdivision of the property or its connection with the sewer or water main or both, shall be levied, collected, and bear interest as provided in this subsection. (June 25, 1938, 52 Stat. 1199, ch. 702, § 3; June 17, 1959, 73 Stat. 75, Pub. L. 86-46, §§ 1, 3; 1973 Ed., § 47-1103; Apr. 9, 1997, D.C. Law 11-198, § 204(a), 43 DCR 4569; enacted Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1201, 47-1204, and 47-1302.

Effect of amendments. — D.C. Law 11-198 inserted “conducted pursuant to § 47-1301” in the last sentence in (b)(1).

Temporary amendment of section. — Section 204(a) of D.C. Law 11-226 amended (b)(1) to read as follows:

“(b)(1) All special assessments authorized to be levied by the District of Columbia for public improvements, with the exception of assessments levied in condemnation proceedings, may be paid without interest within 60 days from the date of service of notice or of the last publication of notice as the case may be. Interest of one-half of 1 per centum for each month or part thereof shall be charged on all unpaid amounts from the expiration of 60 days from the date of service or last publication as the case may be. Any such assessment may be paid in 3 equal installments with interest thereon. If any such assessment or any part thereof shall

remain unpaid after the expiration of 2 years from date of service of notice or last publication of notice as the case may be, the property against which said assessment was levied may be sold for such assessment or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general taxes, if said assessment with interest and penalties thereon shall not have been paid in full prior to said sale.”

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 204(a) of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 204(a) of the Fiscal Year

1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 204(a) of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

Section 1001 of D.C. Act 12-2 provides for the application of the act.

Legislative history of Law 11-198. — Law 11-198, the "Fiscal Year 1997 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed

by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective April 9, 1997.

Legislative history of Law 11-226. — Law 11-226, the "Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective on April 9, 1997.

Application of Law 11-(Act 11-453). — Section 1001 of D.C. Law 11-(Act 11-453) provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

§ 47-1204. Condemnation proceedings; payment; interest; delinquency sale.

Special assessments authorized to be levied in condemnation proceedings instituted by the District of Columbia may be paid without interest within 60 days after the ratification or confirmation of the verdict of the jury. Interest of one-third of 1% for each month or part thereof shall be charged on all unpaid amounts from the expiration of 60 days from the date of the ratification or confirmation of the verdict of the jury. Any such assessment may be paid in 5 equal installments with interest thereon. If any such assessment or any part thereof shall remain unpaid after the expiration of 4 years from the date of the ratification or confirmation of the verdict of the jury the property against which said assessment was levied may be sold for such assessment or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301, in the same manner and under the same conditions as property sold for delinquent general taxes, if said assessment with interest and penalties thereon shall not have been paid in full prior to said sale. This section shall apply only to assessments ratified or confirmed by the court after June 25, 1938, and assessments ratified or confirmed on or before June 25, 1938, shall be levied and collected and bear interest as if §§ 47-1201 to 47-1206 had not been passed. (June 25, 1938, 52 Stat. 1200, ch. 702, § 4; 1973 Ed., § 47-1104; Apr. 9, 1997, D.C. Law 11-198, § 204(b), 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1201 and 47-1203.

Effect of amendments. — D.C. Law 11-198 inserted "conducted pursuant to § 47-1301" in the fourth sentence.

Temporary amendment of section. — Section 204(b) of D.C. Law 11-226 amended the section to read as follows:

"Special assessments authorized to be levied in condemnation proceedings instituted by the District of Columbia may be paid without inter-

est within 60 days after the ratification or confirmation of the verdict of the jury. Interest of one-third of 1 per centum for each month or part thereof shall be charged on all unpaid amounts from the expiration of 60 days from the date of the ratification or confirmation of the verdict of the jury. Any such assessment may be paid in 5 equal installments with interest thereon. If any such assessment or any part thereof shall remain unpaid after the expiration of 4 years from the date of the ratification

or confirmation of the verdict of the jury the property against which said assessment was levied may be sold for such assessment or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general taxes, if said assessment with interest and penalties thereon shall not have been paid in full prior to said sale. This section shall apply only to assessments ratified or confirmed by the court after June 25, 1938, and assessments ratified or confirmed on or before June 25, 1938 shall be levied and collected and bear interest as if §§ 47-1201 to 47-1206 had not been passed."

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 204(b) of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25,

1996, 43 DCR 4181), and see § 204(b) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

For temporary amendment of section, see § 204(b) of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Legislative history of Law 11-198. — See note to § 47-1203.

Legislative history of Law 11-226. — See note to § 47-1203.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Application of Law 11-226. — Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

§ 47-1205. Removal of nuisances; payment; interest; delinquency sale; redemption.

(a) Except as provided in subsections (b) and (c) of this section, all assessments authorized to be levied by the District of Columbia to reimburse it for money expended in the removal of nuisances shall bear interest at the rate of 1½% per month or part thereof from the date such assessment was levied. If any such assessment shall remain unpaid after the expiration of 60 days from the date such assessment was levied the property against which such assessment was levied may be sold for such assessment with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301, in the same manner and under the same conditions as property sold for delinquent general taxes, if such assessment with interest and penalties thereon shall not have been paid in full prior to said sale.

(b) All assessments authorized to be levied by the District of Columbia to reimburse it for money spent in the removal or abatement of nuisances or the correction of any other condition on real property that is violative of any District law or regulation pursuant to § 5-513, or the correction of any unsafe condition pursuant to §§ 5-601 and 5-603, shall bear interest at the rate of 1½% per month or part of a month from the date the assessment was levied. If any part of the assessment remains unpaid after the expiration of 60 days from the date the assessment was levied, the property against which the assessment was levied may be sold for the outstanding assessment, plus interest and penalties, at the next ensuing tax sale, but no later than 6 months from the expiration of 60 days from the date of the assessment, in the same manner and under the same conditions as property sold for delinquent general taxes, if the assessment, plus interest and penalties, is not paid in full prior to the sale.

(c) For the purposes of any property sold pursuant to subsection (b) of this section, the redemption period specified in §§ 47-847, 47-1304, 47-1306, 47-1307, and 47-1312 shall be 6 months. (June 25, 1938, 52 Stat. 1200, ch. 702, § 5; 1973 Ed., § 47-1105; Apr. 19, 1977, D.C. Law 1-124, title VII, § 701, 23 DCR 8749; Mar. 16, 1978, D.C. Law 2-52, § 2, 24 DCR 4832; Aug. 9, 1986, D.C. Law 6-135, § 13, 33 DCR 3771; Apr. 9, 1997, D.C. Law 11-198, § 204(c), 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 5-606, 45-2711, 47-847, 47-1201, 47-1203, 47-1204, 47-1304, 47-1306, 47-1307, and 47-1312.

Effect of amendments. — D.C. Law 11-198 inserted “conducted pursuant to § 47-1301” in the last sentence in (a).

Temporary amendment of section. — Section 204(c) of D.C. Law 11-226 amended (a) to read as follows:

“(a) Except as provided in subsections (b) and (c) of this section, all assessments authorized to be levied by the District of Columbia to reimburse it for money expended in the removal of nuisances shall bear interest at the rate of 1½% per month or part thereof from the date such assessment was levied. If any such assessment shall remain unpaid after the expiration of 60 days from the date such assessment was levied the property against which such assessment was levied may be sold for such assessment with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general taxes, if such assessment with interest and penalties thereon shall not have been paid in full prior to said sale.”

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal Year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 204(c) of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), and see § 204(c) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

For temporary amendment of section, see § 204(c) of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Legislative history of Law 1-124. — Law 1-124, the “Revenue Act For Fiscal Year 1978,” was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-52. — Law 2-52, the “Increase Rate of Interest on Special Assignments Act of 1977,” was introduced in Council and assigned Bill No. 2-185, which was referred to the Committee on Finance and Revenue and to the Committee on Housing and Urban Development for comments. The Bill was adopted on first and second readings on October 11, 1977 and October 25, 1977, respectively. Signed by the Mayor on December 7, 1977, it was assigned Act No. 2-113 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-135. — See note to § 47-847.

Legislative history of Law 11-198. — See note to § 47-1204.

Legislative history of Law 11-226. — See note to § 47-1203.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Application of Law 11-226. — Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Approval of amendments to rules for real property taxes. — Pursuant to Resolution 7-72, the “Homestead Housing Tax Sale Amendment Approval Resolution of 1987,” effective June 2, 1987, the Council approved proposed amendments to Chapter 3, Title 9 DCMR, rules for real property taxes which were transmitted to Council by the District of Columbia Homestead Program Administration, Department of Housing and Community Development.

§ 47-1206. Power and duty of Mayor to reassess.

The Mayor of the District of Columbia is hereby authorized and directed, in any case where a special assessment for public improvements in the District of Columbia, other than an assessment levied by a jury in a condemnation proceeding, has been or hereafter may be quashed, set aside, or declared void by any court for any reason other than the right of the public authorities to levy an assessment for such improvement, to reassess the property in accordance with the benefits received from such improvement, after notice to the owner of the property and an opportunity afforded him to be heard, the hearing to be had before such agent or agents as the Mayor may designate. At such hearing physical facts which may be ascertained by view may be considered, whether proved or not. Such agent or agents shall report in writing to the Mayor the substance of the evidence taken and the arguments made at the hearing, together with the findings (which may include a statement of any physical facts not proved at the hearing which may be ascertained by view) and the recommendations of such agent or agents. A copy of such report, findings, and recommendations shall be mailed to the protestant 10 days before being presented to the Mayor, and the protestant may, before such report, findings, and recommendations are presented to the Mayor, file with such agent or agents exceptions to such report and findings, which exceptions shall be presented to the Mayor with such report, findings, and recommendations. The reassessment shall be made within 1 year from the date the judgment or decree quashing, setting aside, or declaring void the assessment becomes final and not subject to review. Notice of such reassessment shall be given the property owner in the same manner as if such reassessment was an original assessment, and such reassessment shall bear interest and be collected in the same manner as if such reassessment was an original assessment. (June 25, 1938, 52 Stat. 1201, ch. 702, § 6; 1973 Ed., § 47-1106; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to other assessment powers and duties of Mayor, see §§ 7-637 and 47-839.

As to relevying assessments for laying water mains and sewers, see § 43-1517.

Section references. — This section is referred to in §§ 47-1201, 47-1203, and 47-1204.

§ 47-1207. Improvements of streets about the Capitol.

In the improvements of streets about the Capitol, the Secretary of the Interior shall assess and collect the cost of all improvements made in front of all private property in the same proportion as charged by the District authorities for the same purpose. (R.S., D. C., § 152; 1973 Ed., § 47-1107; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

CHAPTER 12A. HEALTH CARE PROVIDER ASSESSMENTS.

Sec.

47-1221 to 47-1232. [Expired].

§§ 47-1221 to 47-1232. Definitions; assessment on hospitals; assessment on nursing homes; assessment on intermediate care facilities for the mentally retarded; interest and penalties; payment; confidentiality; audit; determination or redemption of assessment; periods of limitation on audit and collection; appeals; certain suits forbidden; federal determinations; rules.

[Expired].

Cross references. — For provisions similar to former Chapter 12A, see Chapter 12B.

Expiration of Law 9-214. — Section 15(a) of D.C. Law 9-214 provided that the act shall expire on September 30, 1994. Section 15(b) of D.C. Law 9-214 provided that after the expira-

tion of the act all rights and liabilities arising under the act prior to its expiration shall continue and may be enforced in the same manner and to the same extent as if the act were still in effect.

CHAPTER 12B. HEALTH CARE PROVIDER ASSESSMENT ACT OF 1995.

Sec.

- 47-1241. Definitions.
- 47-1242. Assessment on hospitals.
- 47-1243. Assessment on nursing homes.
- 47-1244. Assessment on intermediate care facilities for the mentally retarded.
- 47-1245. Interest and penalties.
- 47-1246. Payment.
- 47-1247. Confidentiality; audit; determination or redetermination of assessment.

Sec.

- 47-1248. Periods of limitation on audit and collection.
- 47-1249. Appeals.
- 47-1250. Certain suits forbidden.
- 47-1251. Federal determinations.
- 47-1252. Rules.

§ 47-1241. Definitions.

For the purposes of this chapter, the term:

(1) "Fiscal year" means the 12-month accounting period of the District of Columbia beginning on October 1 and ending on September 30 of each year.

(2) "Gross patient services revenue" means the sum of inpatient service charges, ambulatory service charges, ancillary service charges, and other charges related to the provision of services to patients. Gross patient services revenue does not include any nonpatient services revenue.

(3) "Health care provider" means an individual, corporation, partnership, or other entity subject to an assessment under this act.

(4) "Hospital" means a health care facility as defined in § 32-1301(a)(1), but does not include a health care facility operated by the federal government.

(5) "Intermediate care facility for the mentally retarded" shall have the same meaning as under section 1905(d) of the Social Security Act (42 U.S.C. § 1396d(d)), but does not include a facility operated by the federal government.

(6) "Net Medicaid revenue" means payments received, or to be received, by a health care provider from a medical assistance program pursuant to title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), for medical and other health care services provided by the health care provider to eligible individuals during a 12-month accounting period of the health care provider.

(7) "Net patient services revenue" means gross patient services revenue as defined in paragraph (2) of this section, less total deductions from gross patient services revenue, as defined in paragraph (10) of this section.

(8) "Nursing home" means a health care facility as defined in § 32-1301(a)(3), but does not include a health care facility operated by the federal government or operated as part of a continuing care retirement community, as described in the District of Columbia Health Plan, issued December 1989, at pages VII-A-8 and VII-A-9.

(9) "Patient day" means a day in which a patient occupies a bed for purposes of receiving inpatient services, including intermediate care services for persons who are mentally retarded, but shall not include the day of the patient's discharge from a facility. A patient shall be considered to occupy a bed on a day when he is physically absent from a facility, provided that the facility is eligible to receive payment for the day from a medical assistance program or any other payer.

(10) "Total deductions from gross patient services revenue" means deductions from gross patient services revenue resulting from a health care

provider's inability to collect full payment of its established charges to patients. The deductions include:

(A) Bad debts;

(B) Contractual adjustments, including the difference between the amount that would be realized at the health care provider's established charges and amounts actually received pursuant to contractual agreements entered into in order to receive Medicare payments, Medicaid payments, Blue Cross/Blue Shield plan payments, or other 3rd-party payments;

(C) Uncompensated or charity care;

(D) Administrative, courtesy, and policy discounts and adjustments; and

(E) Other similar deductions. (Sept. 26, 1995, D.C. Law 11-52, § 202, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary addition of chapter, see §§ 201-213 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and §§ 201-213 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of

1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

§ 47-1242. Assessment on hospitals.

(a) Each hospital operating in the District of Columbia shall pay an assessment equal to 0.45% of the hospital's annual net patient services revenue, excluding net Medicaid revenue.

(b) The assessment shall be paid in 2 equal installments. The first installment shall be due on September 30, 1995, and the second installment shall be due on March 31, 1996. The assessment shall be based on the hospital's most recently completed 12-month accounting period ending on or before September 30, 1995. In the case of a hospital having an accounting period other than a 12-month period, the Mayor shall determine the accounting period upon which the assessment shall be based.

(c) Each hospital shall report net patient services revenue for the period upon which the assessment is imposed by submitting an audited financial statement and other information as may be prescribed by the Mayor in the rules issued pursuant to § 47-1252. The report shall be submitted on June 30, 1995, for the installment payment due on September 30, 1995, and on December 31, 1995, for the installment payment due on March 31, 1996.

(d) If, for reasonable cause shown, an audited financial statement is not available to a hospital at the time it is required to make its first payment, the hospital shall report net patient services revenue using an unaudited financial statement and shall base its payment on that statement. The hospital shall submit its audited financial statement with the payment due on September 30 of each fiscal year and shall adjust that payment to reflect the information in its audited financial statement. (Sept. 26, 1995, D.C. Law 11-52, § 203, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1245 and 47-1248.

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1243. Assessment on nursing homes.

(a) Each nursing home operating in the District of Columbia shall pay an assessment equal to \$11.88 per patient day subject to the limitations imposed in subsection (f) of this section.

(b) The assessment shall be paid in 2 equal installments. The first installment shall be due on September 30, 1995, and shall be based on the nursing home's total patient days during the immediately preceding 6-month period beginning on April 1, 1995, and ending September 30, 1995. The second installment shall be due on March 31, 1996, and shall be based on the nursing home's total patient days during the 6-month period beginning on October 1, 1995, and ending March 31, 1996.

(c) Each nursing home shall report its total patient days for the period upon which the assessment is imposed on the form and in the manner prescribed by the Mayor in the rules issued pursuant to § 47-1252. The report shall be submitted with each payment by the nursing home.

(d) If, for reasonable cause shown, a nursing home is not able to determine its actual number of patient days by the date a payment is due, it shall submit a report estimating the number of patient days and providing the basis for its estimate. The nursing home shall report the actual number of patient days no later than 30 days after the date the payment is due and adjust its next scheduled payment to reflect that information. Within 30 days following the date the final payment under this section is due, the nursing home shall report the actual number of patient days for the relevant period and reconcile its final payment, either by tendering the remaining amount due or by claiming a refund.

(e) Pursuant to section 1903(w)(3)(E)(i) of the Social Security Act, (42 U.S.C. § 1396b(w)(3)(E)(i)), the Mayor shall submit to the Secretary of the Department of Health and Human Services an application for a waiver of the assessment imposed by this section for nursing homes that provide uncompensated charity care in an amount that exceeds the total amount that the nursing home would be required to pay under this section.

(f) No assessment imposed on a nursing home pursuant to this section on or after October 1, 1994, shall exceed 6% of the gross patient services revenue of the nursing home.

(g) Effective for services provided on and after October 1, 1994, Medicaid rates paid to nursing homes shall be increased to reflect the allowable Medicaid costs. This increase shall be paid as soon as practicable, but no later than the subsequent fiscal year for services provided in the current fiscal year. (Sept. 26, 1995, D.C. Law 11-52, § 204, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1245 and 47-1248.

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1244. Assessment on intermediate care facilities for the mentally retarded.

(a) Each intermediate care facility for the mentally retarded ("intermediate care facility") operating in the District of Columbia shall pay an assessment equal to \$15.29 per patient day subject to the limitations imposed in subsection (e) of this section.

(b) The assessment shall be paid in 2 equal installments. The first installment shall be due on September 30, 1995, and shall be based on the intermediate care facility's total patient days during the immediately preceding 6-month period beginning on April 1, 1995, and ending September 30, 1995. The second installment shall be due on March 31, 1996, and shall be based on the intermediate care facility's total patient days during the 6-month period beginning on October 1, 1995, and ending March 31, 1996.

(c) Each intermediate care facility shall report its total patient days for the period upon which the assessment is imposed on the form and in the manner prescribed by the Mayor in the rules issued pursuant to § 47-1252. The report shall be submitted with each payment by the intermediate care facility.

(d) If, for reasonable cause shown, an intermediate care facility is not able to determine its actual number of patient days by the date a payment is due, it shall submit a report estimating the number of its patient days and providing the basis for its estimate. The intermediate care facility shall report the actual number of patient days no later than 30 days after the date the payment is due and adjust its next scheduled payment to reflect that information. Within 30 days following the date the final payment under this section is due, the intermediate care facility shall report the actual number of patient days for the relevant period and reconcile its final payment, either by tendering the remaining amount due or by claiming a refund.

(e) No assessment imposed on an intermediate care facility for the mentally retarded pursuant to this section on or after October 1, 1994, shall exceed 6% of the gross patient services revenue of the facility.

(f) Effective for services provided on and after October 1, 1994, Medicaid rates paid to intermediate care facilities for the mentally retarded shall be increased to reflect the allowable Medicaid costs. This increase shall be paid as soon as practicable, but no later than the subsequent fiscal year for services provided in the current fiscal year. (Sept. 26, 1995, D.C. Law 11-52, § 205, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1245 and 47-1248.

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1245. Interest and penalties.

(a) When a health care provider fails to pay an assessment in the amount or on the date required by this chapter, interest at the rate of 1.5% per month of the unpaid assessment, or any fraction of a month, shall be added to the unpaid amount of the assessment from the date prescribed for its payment until the date it is paid.

(1) If a health care provider fails to pay all or part of an assessment within 60 days of the date that payment is due, the Mayor may deduct the unpaid balance of the assessment from medical assistance payments otherwise due to the health care provider by the District of Columbia. Any such deduction shall be made only after written notice has been received by the health care provider and shall be taken in reasonable amounts over a reasonable period of time, taking into account the financial condition of the health care provider.

(2) If the Mayor is satisfied that the failure to pay all or part of an assessment was due to reasonable cause, the Mayor may waive all or part of the interest provided for in this subsection. For purposes of this paragraph, a health care provider's good faith inability to obtain an audited financial statement, as described in § 47-1242(d), or to determine its actual number of patient days, as described in § 47-1243(d) or § 47-1244(d), by the date a payment is due, shall constitute reasonable cause.

(b) When a health care provider fails to file a report required under this chapter, there shall be added to the assessment otherwise due under this chapter an amount equal to 5% of the assessment for each month, or any fraction of a month, that the failure to file continues, not to exceed 25% of the assessment in the aggregate. If the Mayor is satisfied that the failure to file the report was due to reasonable cause, the Mayor may waive all or part of the penalty provided for in this subsection.

(c) In addition to any other penalty prescribed pursuant to this chapter, a health care provider who fails to pay all or part of an assessment due under this chapter with an intent to defraud the District of Columbia shall be subject to a penalty in an amount equal to:

(1) Seventy-five percent of the difference between the amount of the assessment due and the amount of the assessment paid; and

(2) Fifty percent of the interest payable under subsection (a) of this section.

(d) In addition to any other penalty prescribed pursuant to this chapter or by law, a health care provider who knowingly provides false information in a report required to be filed under this chapter shall be subject to a penalty in an amount not to exceed \$1,000. For purposes of this subsection, submitting a report that contains unaudited financial information or estimated patient days shall not constitute a knowing filing of false information, provided that the health care provider states that the report contains unaudited or estimated information and reports its audited financial data or actual patient days as provided in § 47-1242(d), § 47-1243(d), or § 47-1244(d), whichever applies.

(e) In the case of a health care provider to whom no medical assistance payments are due, or for whom the amount of any assessment, interest, or penalties owed under this chapter exceeds the amount of the medical assistance payments due to the health care provider, the District of Columbia shall have a lien upon the real and personal property located in the District of Columbia of the health care provider for any assessments, interest, or penalties that are due under this chapter. The District of Columbia shall have the priority of a secured creditor.

(f) Any action under this section shall be brought in the Superior Court of the District of Columbia by the Corporation Counsel of the District of Columbia

in the name of the District of Columbia. (Sept. 26, 1995, D.C. Law 11-52, § 206, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1246. Payment.

(a) An assessment imposed under this chapter shall be collected by the Mayor.

(b) The funds generated by the health care provider assessments imposed by this chapter shall be deposited into an account in the General Fund designated for the support of health care services in the District of Columbia.

(c) The Mayor and the Council of the District of Columbia shall request that an amount equal to the revenues deposited in the account established by subsection (b) of this section shall be appropriated for the support of health care services. (Sept. 26, 1995, D.C. Law 11-52, § 207, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1247. Confidentiality; audit; determination or re-determination of assessment.

(a) Unless otherwise provided by law, information submitted by a health care provider under this chapter is confidential and shall not be disclosed by the Mayor, or by a person designated by the Mayor, to ascertain the correctness of the information in a form which reveals the identity of an individual health care provider.

(b) The Mayor, or a person designated by the Mayor, to ascertain the correctness of the information reported, may audit the information required to be reported by a health care provider under this chapter and, based on that audit, may determine or redetermine the amount of the assessment due under this chapter.

(1) The Mayor may summon any person to appear before the Mayor to give testimony or answer interrogatories, or to produce books, records, or other pertinent information relating to matters subject to audit. The summons may be served by a member of the Metropolitan Police Department or by registered mail or certified mail addressed to the person at the person's last dwelling place or principal place of business. A verified return by the person serving the summons, or, in the case of service by registered or certified mail, the return post office receipt signed by the person served, shall be proof of service.

(2) The Mayor may report a person who, having been served pursuant to paragraph (1) of this subsection, neglects or refuses to obey the summons, to the Superior Court of the District of Columbia. The Superior Court may compel obedience to the summons to the same extent as witnesses may be compelled to obey subpoenas of the Superior Court.

(c) If the Mayor determines, as a result of an audit conducted pursuant to subsection (b) of this section, that a health care provider owes additional funds under this chapter, the health care provider shall be notified of the amount determined to be owed by registered or certified mail. Payment shall not be due until 30 days after the health care provider receives written notice, as determined by the date of the return post office receipt, of the amount determined to be owed. Any interest and penalties applicable to the payment pursuant to this section shall not accrue until after the 30-day period has expired. (Sept. 26, 1995, D.C. Law 11-52, § 208, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1249.

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1248. Periods of limitation on audit and collection.

No audit of information required to be reported under § 47-1242(c), § 47-1243(c), or § 47-1244(c) shall be commenced more than 3 years following the date the information is reported, except in the case of false or fraudulent information reported with intent to evade assessment or in the case of a failure to report required information. In such cases, an audit may be commenced at any time. (Sept. 26, 1995, D.C. Law 11-52, § 209, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1249. Appeals.

(a) A health care provider contesting the amount of an assessment imposed under this chapter may, within 60 days after the date the assessment is due or the date it receives notice of a determination or redetermination of the amount of the assessment due pursuant to § 47-1247, request a hearing to contest the assessment, determination, or redetermination by filing a notice of appeal with the District of Columbia Board of Appeals and Review. The hearing shall be subject to the provisions of subchapter I of Chapter 15 of Title 1, governing adjudication of contested cases and shall be conducted pursuant to the rules of the District of Columbia Board of Appeals and Review in Chapter 5 of Title 1 of the District of Columbia Municipal Regulations (1 DCMR 500 et seq.).

(b) Before filing an appeal pursuant to subsection (a) of this section, the health care provider shall first pay the assessment together with any penalties and interest due on the assessment to the Mayor. (Sept. 26, 1995, D.C. Law 11-52, § 210, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1250. Certain suits forbidden.

No suit shall be filed to enjoin the assessment and collection by the Mayor of any assessment, interest, or penalty imposed by this chapter. (Sept. 26, 1995, D.C. Law 11-52, § 211, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1251. Federal determinations.

(a) In the event that the federal government determines that an assessment imposed on a class of health care providers pursuant to this chapter does not satisfy the requirements for federal financial participation set forth in section 1903(w) of the Social Security Act (42 U.S.C. § 1396b(w)), or that a payment by the District of Columbia to an individual health care provider for a cost directly resulting from an assessment imposed by this chapter is not eligible for federal financial participation, the moneys collected pursuant to the assessment shall be refunded to the class of health care providers who paid the assessment and the assessment shall not be enforced with respect to future payments.

(b) An adverse determination with respect to an assessment imposed on a class of health care providers pursuant to this chapter shall not affect the validity, amount, applicable rate, or any other terms of any other assessment on a class of health care providers imposed by this chapter. An adverse determination with respect to all the assessments imposed by this chapter shall render this chapter null and void.

(c) Notwithstanding any other provision of this chapter, in the event that the federal government determines that any exclusions from a class of health care providers specified under this chapter would prevent an assessment upon that class from qualifying as a broad-based health care related tax, as that term is defined in section 1903(w)(3)(B) of the Social Security Act (42 U.S.C. § 1396b(w)(3)(B)), then the exclusions shall not be made. (Sept. 26, 1995, D.C. Law 11-52, § 212, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-52. — See note to § 47-1241.

§ 47-1252. Rules.

The Mayor may, pursuant to Subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this chapter. (Sept. 26, 1995, D.C. Law 11-52, § 213, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1242, 47-1243, and 47-1244.

Legislative history of Law 11-52. — See note to § 47-1241.

CHAPTER 13. REAL PROPERTY TAX SALES.

Sec.

- 47-1301. Delinquent taxes — List; notice of sale; public auction.
- 47-1302. Same — Notice to record owner; contents.
- 47-1303. Same — Sale of property.
- 47-1303.1. Definitions for §§ 47-1303.2 and 47-1303.3.
- 47-1303.2. Private sale of unimproved residential real property bid off in the name of the District.
- 47-1303.3. Tax deed.
- 47-1303.4. Real property tax assignment; sale and transfers.
- 47-1304. Same — Deposit required; certificate of sale; tax deed; redemption.
- 47-1305. Same — Applicability of changed interest rates.
- 47-1306. Same — Right of redemption.
- 47-1307. Same — Report to be filed with Recorder of Deeds; disposition of surplus; redemption.

Sec.

- 47-1308. Same — Invalid sales.
- 47-1309. Same — Advertising expenses.
- 47-1310. Duties of Assessor — Furnishment of information.
- 47-1311. Same — Preparation of list of sold property.
- 47-1312. Liens for taxes or assessments — Petition to enforce; redemption.
- 47-1313. Same — Notice to record owner; proper parties defendant; court order; validity of judicial service and sale.
- 47-1314. Same — Sale of property.
- 47-1315. Same — Confirmation of sale; amount payable; disposition of surplus; delivery of deed.
- 47-1316. Errors in computation not to affect sales.
- 47-1317. Refunds — Taxes erroneously paid.
- 47-1318. Same — Money deposited for license.
- 47-1319. Disposition of redemption moneys.

§ 47-1301. Delinquent taxes — List; notice of sale; public auction.

(a) The Assessor of the District of Columbia shall prepare a list of all taxes on real property in the District subject to taxation on which the taxes are levied and in arrears on the first day of July of each year and on the first day of October of each year beginning with tax year 1994 and each tax year thereafter. The notice of sale and the delinquent tax list shall be advertised according to regulations prescribed by the Council of the District of Columbia in not less than 2 general circulation newspapers, published in the District, once every 2 weeks or more frequently. If the taxes due, together with the penalties and costs that may have accrued thereon, shall not be paid prior to the day fixed for sale, the property will be sold, under the direction of the Mayor of the District of Columbia, at public auction at the office of the said Collector of Taxes, commencing at least 3 weeks after the first publication of said notice and continuing on each following day, Sundays and legal holidays excepted, until all said delinquent property is sold; a description sufficient to identify the property shall be considered a proper description.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, only real property taxes delinquent as of October 1, 1993, that remain unpaid at the time of sale, shall be sold at the January 1995 real property tax sale.

(2) Real property taxes delinquent as of October 1, 1994, that remain unpaid at the time of sale shall be sold at the real property tax sale to be held on the third Tuesday in July 1995.

(3) Beginning calendar year 1996 and each year thereafter, the annual real property tax sale shall be held on the third Tuesday in July. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 1; July 1, 1902, 32 Stat. 632, ch. 1358, § 1(1); July 3, 1926, 44 Stat. 834, ch. 759, § 9; Mar. 2, 1927, 44 Stat. 1303, ch. 271; May 21,

1928, 45 Stat. 650, ch. 659; Feb. 25, 1929, 45 Stat. 1268, ch. 314; 1973 Ed., § 47-1001; Oct. 26, 1973, 87 Stat. 508, Pub. L. 93-140, § 25(a); Mar. 16, 1982, D.C. Law 4-81, § 5, 29 DCR 156; Aug. 6, 1993, D.C. Law 10-11, § 108, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 108, 40 DCR 5489; June 14, 1994, D.C. Law 10-127, § 8, 41 DCR 2050; Mar. 23, 1995, D.C. Law 10-253, § 107(a), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 109(a), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessment of reasonable costs of correcting life-or-health threatening condition as tax against property, see §§ 5-513 and 5-605.

As to sale of tax delinquent real property, see §§ 47-847 and 47-848.

As to notice of delinquency sale to owner of family dwelling, see § 47-1103.

As to payment of real estate and personal property taxes, see § 47-1509.

As to sale of lands to pay personal property taxes, see § 47-1601 et seq.

Section references. — This section is referred to in §§ 5-606, 6-2907, 43-1529, 47-1002, 47-1203, 47-1204, 47-1205, 47-1303, 47-1303.4, and 47-1304.

Effect of amendments. — D.C. Law 11-52 designated the existing text as (a); deleted “and the Council of the District of Columbia shall fix the date of sale” following “thereafter” at the end of the first sentence of present (a); and added (b).

Emergency act amendments. — For temporary amendment of section, see § 109(a) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 4-81. — Law 4-81, the “Newspaper Publication Act of 1981,” was introduced in Council and assigned Bill No. 4-323, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 10, 1981, and November 24, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — Law 10-11, the “Omnibus Budget Support Temporary Act of 1993,” was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Legislative history of Law 10-127. — Law 10-127, the “Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-450, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 1, 1994, and March 22, 1994, respectively. Signed by the Mayor on April 13, 1994, it was assigned Act No. 10-221 and transmitted to both Houses of Congress for its review. D.C. Law 10-127 became effective on June 14, 1994.

Legislative history of Law 10-253. — Law 10-253, the “Multiyear Budget Spending Reduction and Support Temporary Act of 1994,” was introduced in Council and assigned Bill No. 10-857. The Bill was adopted on first and second readings on December 21, 1994, and January 3, 1995, respectively. Deemed approved without the signature of the Mayor on January 27, 1995, it was assigned Act No. 10-401 and transmitted to both Houses of Congress for its review. D.C. Law 10-253 became effective on March 23, 1995.

Legislative history of Law 11-52. — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Office of Assessor abolished. — See note to § 47-413.

Office of Collector of Taxes abolished. — See note to § 47-401.

For a history of this section and its precursor, § 47-1001, see *Sheetz v. District of Columbia*, App. D.C., 629 A.2d 515 (1993).

Tax sale is not a government taking for which just compensation must be paid under the Constitution. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Validity of conveyance dependent on strict compliance with tax sale statute and regulations. — The District may effect a valid conveyance of property for nonpayment of real estate taxes only by strict compliance with the tax sale statute and regulations. *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982); *Hines v. Monarch Novelty Co.*, 113 WLR 1253 (Super. Ct. 1985).

Location of sale. — "Office," as used in this section, refers to any place at which the business of the Department of Finance and Revenue is being transacted, and the practice of holding the auction in the police line-up room to accommodate the large number of people attending was in compliance. *Scheve v. Short*, 114 WLR 2601 (Super. Ct. 1986).

Notice provisions require strict compliance, and where a notice which appeared on September 19 and 20, 1972, announced that a delinquent tax list had been published on September 23, 1972, the notice of a publication which had not yet taken place was not sufficient and was therefore fatally defective. *Shenandoah Corp. v. Pringle*, App. D.C., 385 A.2d 748 (1978).

The notice provisions are subject to strict compliance in order to guard against the deprivation of property without due process of law. *Gore v. Newsome*, App. D.C., 614 A.2d 40 (1992).

And actual notice to taxpayer does not preclude tax sale from being void for a failure to strictly comply with the statutory notice. *Potomac Bldg. Corp. v. Karkenny*, App. D.C., 364 A.2d 809 (1976), cert. denied, 431 U.S. 921, 97 S. Ct. 2192, 53 L. Ed. 2d 234 (1977).

Purchase by Collector of Taxes. — If the record owner has received notice that a sale is pending, and if the taxes remain unpaid, then the Collector of Taxes may sell the property at auction; in the absence of a sufficient bid at auction, the Collector of Taxes will "bid off" the property and purchase it on behalf of the District. *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

"Published in the District, once every 2 weeks or more frequently" refers to the newspapers in which the notice is published, and cannot be read to refer to the notice itself, which would require a total of four publications. *Jones v. District of Columbia*, App. D.C., 585 A.2d 1320 (1990).

Notice by publication may divest an individual of property consistent with due process of law. *Coleman v. Scheve*, App. D.C., 367 A.2d 135 (1976).

Even where record owner deceased. — The heirs at law of a deceased record owner are not deprived of due process of law by the tax sale of their property without actual notice where the District mails the required notices to

the record owner. *Moore v. Government of D.C.*, App. D.C., 332 A.2d 749 (1975).

Publication requirement serves 2 purposes, both of which are prospective. First, publication informs potential purchasers of the sale, thereby encouraging competitive bidding to protect the interests of both the District and the owner in selling the property for a fair price. Second, the publication requirement serves to inform the record owner of the sale. *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982).

Notice to trustee under deed of trust. — In the District, a trustee under a deed of trust has the requisite property interest deserving of due process protection. By statute, a trustee under a deed of trust is deemed to have a qualified fee simple, an estate which may pass to his or her heirs. *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on other grounds, App. D.C., 672 A.2d 1075 (1976).

Before a tax sale of real property is held, a trustee under a deed of trust must receive notice by mail or personal service where the trustee's name and address are reasonably identifiable. *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on other grounds, App. D.C., 672 A.2d 1075 (1976).

Notice to trustee deemed constitutionally deficient. — See *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on other grounds, App. D.C. 672 A.2d 1075 (1976).

Change of time when sales made not unconstitutional. — The fact that the Council changes the time of year in which tax sales are made does not rise to the level of a due process deprivation, particularly in light of the District's efforts to acquaint property owners with the expiring redemption period. *Coleman v. Scheve*, App. D.C., 367 A.2d 135 (1976).

Judicial sale under § 47-1312 is an additional method for collecting taxes and does not replace or add to administrative sale procedures. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Purchaser at tax sale acts at his peril, for deficiencies in notice publication are readily discoverable by him before he acts to purchase. *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982).

Cited in *W.C. & A.N. Miller Dev. Co. v. Emig Properties Corp.*, 134 F.2d 36 (D.C. Cir.), cert. denied, 318 U.S. 788, 63 S. Ct. 983, 87 L. Ed. 1155 (1943); *Taylor v. Kjaer*, 171 F.2d 343 (D.C. Cir. 1948); *Dodson v. Scheve*, App. D.C., 339 A.2d 39 (1975), cert. denied, 424 U.S. 909, 96 S. Ct. 1103, 47 L. Ed. 2d 312 (1976); *District of Columbia v. All of Lot 9, Square 5148*, 110 WLR 469 (Super. Ct. 1982); *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985); *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992).

§ 47-1302. Same — Notice to record owner; contents.

(a) Annually and subsequent to July 1st, the Assessor of the District of Columbia shall mail to the record owner of each lot or parcel of land upon which a real property tax has been levied by the District of Columbia as of July 1st of the same year, a notice of the amount of the real property tax, and of the manner in which the amount of the real property tax is payable according to law. The notice shall state whether there were any delinquent real property taxes unpaid on July 1st of the year in which the notice is sent; provided, that if the address of the owner is unknown, the notice shall be mailed to the owner's agent, if known; and if there is more than 1 record owner of any lot or parcel, notice mailed to 1 of the owners shall be deemed in compliance with this section; provided further, that nothing in this section shall affect in any way the provisions of § 47-1203; provided further, that failure of the property owner or the property owner's agent to receive the notice shall not relieve the property owner of payment of any penalty or interest as required by law for the delinquent payment of real property taxes; provided further, that the term "record owner" shall include 1 or more persons whose leasehold interest or interests in a leasehold condominium, as that term is defined in § 45-1802(18), extends for the entire balance of the unexpired term or terms.

(b) Notwithstanding the provisions in subsection (a) of this section, beginning October 1, 1993, and for each tax year thereafter, annually and subsequent to October 1st, the Assessor of the District of Columbia shall mail to the record owner of each lot or parcel of land upon which a real property tax has been levied by the District of Columbia as of October 1st of the same year, a notice of the amount of such real property tax, and of the manner in which the amount of such real property tax is payable according to law. The notice shall state whether there were any delinquent real property taxes unpaid on October 1st of the year in which the notice is sent; provided, that if the address of the owner is unknown, the notice shall be mailed to the owner's agent, if known; and if there is more than 1 record owner of any lot or parcel, notice mailed to 1 of the owners shall be deemed compliance with this section; provided further, that nothing in this section shall affect in any way the provisions of § 47-1203; provided further, that failure of the property owner or the property owner's agent to receive the notice shall not relieve the property owner of payment of any penalty or interest as required by law for the delinquent payment of real property taxes; provided further, that the term "record owner" shall include 1 or more persons whose leasehold interest or interests in a leasehold condominium, as that term is defined in § 45-1802(18), extends for the entire balance of the unexpired term or terms. (June 25, 1938, ch. 702, § 12; Oct. 5, 1943, 57 Stat. 570, ch. 256; 1973 Ed., § 47-1001a; Dec. 18, 1979, D.C. Law 3-40, § 5, 26 DCR 1950; Aug. 6, 1993, D.C. Law 10-11, § 109, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 109, 40 DCR 5489; June 14, 1994, D.C. Law 10-127, § 7, 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

Legislative history of Law 3-40. — Law 3-40, the "Real Property Tax Rates for Tax Year

1980 Act," was introduced in Council and assigned Bill No. 3-176, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 25, 1979 and October 9, 1979, respectively. Signed by the Mayor on October 26, 1979, it was assigned Act No. 3-112 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — See note to § 47-1301.

Legislative history of Law 10-25. — See note to § 47-1301.

Legislative history of Law 10-127. — See note to § 47-1301.

Office of Assessor abolished. — See note to § 47-413.

Duty of Department of Finance and Revenue. — In deciding the issue of whether the Department of Finance and Revenue has a duty to check its own records for evidence of a taxpayer's correct address, the trial court must engage in the balancing process of weighing the burden on the Department of Finance and Revenue against the reasonableness of the taxpayer's expectation, unless otherwise informed, that the Department of Finance and Revenue had the correct address for all purposes when it mailed Income-Expense forms to his new address. *Keatts v. Robinson*, App. D.C., 544 A.2d 716 (1988).

The Department of Finance and Revenue has no statutory or constitutional duty to update its records from probate records. *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992).

Constitutional to mail notices to deceased record owner. — The heirs at law of a deceased record owner are not deprived of due process of law by a tax sale of their property without actual notice where the District mails the required notices to the record owner. *Moore v. Government of D.C.*, App. D.C., 332 A.2d 749 (1975).

Owners lack standing to complain of inadequate notice to mortgagees. — In the absence of injury to themselves fairly traceable

to the alleged constitutional violation, owners of an apartment building sold at a tax sale lacked standing to complain of the lack of adequate notice to the mortgagees; they cannot assert the constitutional rights of parties not in privity with them, who have articulated no grievance. *Jones v. District of Columbia*, App. D.C., 585 A.2d 1320 (1990).

Notice to trustee under deed of trust. — In the District, a trustee under a deed of trust has the requisite property interest deserving of due process protection. By statute, a trustee under a deed of trust is deemed to have a qualified fee simple, an estate which may pass to his or her heirs. *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on other grounds, App. D.C., 672 A.2d 1075 (1976).

Before a tax sale of real property is held, a trustee under a deed of trust must receive notice by mail or personal service where the trustee's name and address are reasonably identifiable. *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on the grounds, App. D.C., 672 A.2d 1075 (1976).

Test of defective notice. — A notice is not defective so as to invalidate a tax sale merely because the District has deviated from the tax records by abbreviating the owner's first name. Rather, the test is whether the type of abbreviation used materially affects the accuracy of the notice or creates a substantial risk that a record owner will erroneously believe the notice was intended for someone else. *Gore v. Newsome*, App. D.C., 614 A.2d 40 (1992).

Notice to trustee deemed constitutionally deficient. — See *District of Columbia v. Mayhew*, App. D.C., 601 A.2d 37 (1991), modified on other grounds, App. D.C., 672 A.2d 1075 (1976).

Cited in *Dodson v. Scheve*, App. D.C., 339 A.2d 39 (1975), cert. denied, 424 U.S. 909, 96 S. Ct. 1103, 47 L. Ed. 2d 312 (1976); *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982); *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985).

§ 47-1303. Same — Sale of property.

(a) Upon the day specified in § 47-1301, the Mayor of the District of Columbia shall proceed to sell or cause to be sold any and all property upon which such taxes remain unpaid, and continue to sell the same every secular day until all the real property as aforesaid in § 47-1301 shall have been brought to auction and sold. In case no other person bids the amount due, together with penalties and costs, on any lot, the said Collector of Taxes shall bid the amount due, together with penalties and costs, on the same and purchase it for the District.

(b) Notwithstanding subsection (a) of this section, the Mayor may bid on any real property sold pursuant to § 43-1529, 43-1609, or 43-1610, that the Mayor

deems suitable for inclusion in housing and community development programs such as the Homestead Preservation Program, the Tenant Assistance Program, urban renewal, or any other nonprofit community development program for low and moderate income people as authorized by law. A bid shall not exceed the estimated market value of the property or the total liability to the District government, whichever is less. Title acquired by the District government pursuant to this subsection shall be deemed to be prima facie evidence of clear title in fee simple. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 2; July 1, 1902, 32 Stat. 633, ch. 1358, § 1(2); 1973 Ed., § 47-1002; June 13, 1990, D.C. Law 8-136, § 7, 37 DCR 2620; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section referred to in §§ 47-1303.1 and 47-1304.

Legislative history of Law 8-136. — Law 8-136, the “District of Columbia Water and Sewer Operations Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-269, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 17, 1990, it was assigned Act No. 8-192 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 8 of D.C. Law 8-136 provided that within 60 days of June 13, 1990, the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this act including rules regarding deposits, meters, liens, the sale and redemption of real property, the amnesty program, receivership, termination of water and sewer services, and administrative review; that the proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, and, if the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved; and that if after 90 days from June 13, 1990, the Mayor has failed to issue proposed rules to implement the provisions of this act as provided in subsection (a) of this section, the Council may adopt any legislation necessary to accomplish the purposes of this act.

Office of Collector of Taxes abolished. — See note to § 47-401.

Power to convey property for nonpayment of real estate taxes, etc. — The fundamental, constitutional right to the preservation of one’s property, as well as one’s life and liberty, requires strict adherence to due process requirements. The power to convey property for nonpayment of taxes can be validly exercised only by strict compliance with the relevant statutes and regulations, or else the sale is invalid and must be set aside. *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992).

District of Columbia law requires strict compliance with the statutes and regulations governing tax sales of real property. *Gore v. Newsome*, App. D.C., 614 A.2d 40 (1992).

Purchase by Collector of Taxes. — If the record owner has received notice that a sale is pending, and if the taxes remain unpaid, then the Collector of Taxes may sell the property at auction; in the absence of a sufficient bid at auction, the Collector of Taxes will “bid off” the property and purchase it on behalf of the District. *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

Sale of real property for nonpayment of taxes does not extinguish an easement with which the property is burdened. *District of Columbia v. Capital Mtg. & Title Co.*, 84 F. Supp. 788 (D.D.C. 1949).

Cited in *Shenandoah Corp. v. Pringle*, App. D.C., 385 A.2d 748 (1978); *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982).

§ 47-1303.1. Definitions for §§ 47-1303.2 and 47-1303.3.

For the purpose of §§ 47-1303.2 and 47-1303.3, the term:

(1) “Adjoining property” means real property that has, in whole or in part, a common boundary with the bid off property.

(2) “Bid off property” means real property that has been bid off in the name of the District at public auction to enforce the District’s lien for unpaid taxes or assessments pursuant to § 47-1303 and for which the statutory

redemption period has expired. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 2a, as added Apr. 30, 1994, D.C. Law 10-115, § 202(a), 41 DCR 1216; Apr. 18, 1996, D.C. Law 11-110, § 54, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

Effect of amendments. — D.C. Law 11-110 substituted “§§ 47-1303.2 and 47-1303.3” for “this act” in the introductory language.

Legislative history of Law 10-115. — Law 10-115, the “Financial Administration Revision and Clarification Act of 1994,” was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and

transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

§ 47-1303.2. Private sale of unimproved residential real property bid off in the name of the District.

(a) Notwithstanding any other provision of law, the Mayor may sell at private sale real property that has been bid off in the name of the District at public tax sale for 2 consecutive years and that has not been redeemed by the owner within the redemption period provided by law.

(b) Before accepting offers on the bid off property for private sale, the Mayor shall:

(1) Send a final notice to the owner of the bid off property stating that the bid off property will be offered for private sale unless the bid off property is redeemed within 30 days after the date of the final notice by paying all taxes and assessments, including penalties, interest, costs, and charges against the bid off property; and

(2) Notify all recorded lienholders that the bid off property shall be offered for private sale unless the bid off property is redeemed by the owner of the bid off property within the 30-day period specified in paragraph (1) of this subsection.

(c) Owners of adjoining property shall have the first opportunity to purchase bid off property at private sale. The Mayor shall notify the owners of adjoining property that:

(1) They may make offers to the Mayor to purchase the bid off property within a period of time set by the Mayor. The minimum offer acceptable shall be an amount equal to all current year’s taxes and assessments, including penalties and interest, and costs charged against the property; and

(2) If they purchase the bid off property, they shall agree to the combining of the bid off property and the purchaser’s adjoining property into a single tax lot that shall be reflected in the real property tax records of the District.

(d) If only 1 adjoining property owner offers to purchase the bid off property and meets the requirements of subsection (c) of this section, the Mayor shall accept the offer.

(e) If more than 1 adjoining property owner offers to purchase the bid off property and meets the requirements of subsection (c) of this section, the Mayor shall accept the highest offer.

(f) If no acceptable offer is made by an adjoining property owner within the time period determined by the Mayor, the Mayor shall sell the bid off property to any interested purchaser in accordance with procedures established by the Mayor. The minimum sale price acceptable shall be an amount equal to all current year's taxes and assessments, including penalties and interest, and costs charged against the property. Unsold bid off property shall not be returned to the public tax sale, but shall be retained by the Mayor until sold at private sale.

(g) An offer to purchase bid off property at private sale shall be made in writing on a form and under such conditions as the Mayor shall by regulation prescribe. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 2b, as added Apr. 30, 1994, D.C. Law 10-115, § 202(b), 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1303.1, 47-1303.3, and 47-1304.

Legislative history of Law 10-115. — See note to § 47-1303.1.

§ 47-1303.3. Tax deed.

(a) The Mayor shall issue a deed for the bid off property sold pursuant to § 47-1303.2 to the person whose offer the Mayor accepts.

(b) The deed shall be prima facie evidence of a good and perfect title in fee simple to the bid off property. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 2c, as added Apr. 30, 1994, D.C. Law 10-115, § 202(c), 41 DCR 1216; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1303.1 and 47-1304.

Legislative history of Law 10-115. — See note to § 43-1303.1.

§ 47-1303.4. Real property tax assignment; sale and transfers.

(a) The District may assign or sell and transfer, for consideration, to a third party, tax liens bid off in the name of the District pursuant to § 47-1301 or tax liens that remain unsatisfied for six months or more. The tax liens may be assigned or sold and transferred in any manner the Mayor deems appropriate, including, but not limited to, individually, in bulk, or to a person who issues debt secured by the tax liens. Such transactions shall not be subject to the provisions of § 1-1181.1 et seq. The District may make the assignment or conduct a sale and transfer of its tax liens either by public auction, sealed bid, or pursuant to a negotiated contract.

(b) The District's tax liens may be purchased by any person, including, but not limited to, a trust created and established solely for the purpose of purchasing tax liens from the District, and which issues debt securities secured by the liens. The Mayor is authorized to accept as payment for the

assignment or sale and transfer of the tax liens cash, notes, or any combination thereof, or such other consideration as the Mayor deems appropriate. Any bonds, notes, or other obligations issued by any purchaser, assignee, or transferee of the tax liens shall not constitute obligations of the District and shall be without recourse to the District.

(c) Notwithstanding any other provision of law, whenever the Mayor determines that it is in the District's best interest, the District may assign or sell and transfer its tax liens to any person, except the delinquent owner of the property subject to the tax lien, or a person related to the owner, in an amount less than the total amount of unpaid taxes, penalties and accrued interest. The execution of a purchase agreement or other agreement by the Mayor shall be conclusive evidence of the adequacy of consideration for the assignment or sale and transfer of the tax liens.

(d) The assignment or sale and transfer of any tax liens and the right to receive amounts in respect thereof as provided by law shall be evidenced by a notarized certificate of the Director of the Department of Finance and Revenue or his or her duly authorized representative, which shall recite the full amount of such lien, including penalties, interest, and costs accrued as of the date of the assignment or sale and transfer of such tax lien, and naming the purchaser of the lien, the record owner, and the square, lot, and street address of the related real property. The certificate of the assignment or sale and transfer shall be recorded in the Office of the Recorder of Deeds.

(e) The transferee of a tax lien and any assignee or successor in interest of such transferee shall have and possess the same rights, powers, lien status, and priority of payment at law or in equity as the District would have possessed if the lien had not been assigned or sold and transferred. The transferee or assignee shall have the same rights to enforce all such tax liens as the District, including the issuance of a deed in fee simple absolute by the Superior Court of the District of Columbia.

(f)(1) Notice by registered or certified mail must be sent to the record owner and all other lienholders of record by the District at least 30 days in advance of expiration of the redemption period.

(2) Suits to contest the validity of the deed issued pursuant to this section may not be instituted and are forever barred if not filed within 90 days of recordation of the deed in the Office of the Recorder of Deeds.

(3) Both the public notice pursuant to § 47-1301 and the notice of the expiration of the redemption period shall include a statement that suits to contest the validity of the deed must be filed within 90 days of recordation of such deed in the Office of the Recorder of Deeds.

(4) Upon the expiration of the 90-day period from the date of recordation of the deed, the validity of the deed, any other agreements relating thereto, and all proceedings in connection therewith shall be conclusively presumed to have been legally taken and no court shall have the authority to inquire into such matters.

(g) Payments received for delinquent taxes shall be applied first to the penalties, accrued interest, and real property tax in that order related to the longest standing delinquency, and then to the penalties, accrued interest, and

real property tax in that order due on the next longest standing delinquency, and subsequent delinquencies.

(h)(1) In an action to foreclose on a tax certificate or certificates, the court may award counsel fees in any in rem or in personam proceeding except for special cause shown by affidavit. If the plaintiff is other than the District, no counsel fees shall be allowed unless, prior to the filing of the complaint, the plaintiff shall have given not more than 120 nor less than 30 days written notice to the interested owners or mortgagees whose interests appear of record, by registered or certified mail with postage prepaid thereon addressed to their last known addresses, of intention to file such complaint. The notice shall also contain the amount due on the tax lien as of the day of the notice. After the complaint has been filed, all redemptions shall be subject to the fixing of fees and costs.

(2) In an action for the foreclosure on a tax certificate, the court or the clerk may, as a matter of discretion, tax as a part of the taxable costs all legal fees and reasonable charges necessarily paid or incurred in procuring searches relative to the title of the subject premises. In tax foreclosure actions brought to foreclose tax sale certificates on more than one parcel, the fees prescribed shall apply to each separate parcel. The court or the clerk may also authorize inclusion of all legal fees and charges necessarily incurred for searches required for unpaid taxes or municipal liens and for searches required to enable the officer making public sale to insert in the notices, advertisements, and conditions of sale, a description of the estate or interest to be sold and the defects in title and liens or encumbrances thereon, as authorized by law.

(i)(1) The assignee, purchaser or transferee of a tax lien may assign or sell and transfer the liens to any person, except to the delinquent owner of the property subject to the lien, or a person related to the owner. The transferee thereof may subsequently transfer and assign the tax lien to any other person, except to the delinquent owner of the property subject to the tax lien, or a person related to the owner.

(2) Any transfer made pursuant to paragraph (1) of this subsection shall be evidenced by a notarized document executed by the transferor. Such document shall cross-reference the original notarized certificate of assignment or sale and transfer issued by the Department of Finance and Revenue and shall recite the information appearing on such original certificate.

(3) Evidence of any subsequent transfer and assignment shall be recorded in the Office of the Recorder of Deeds.

(j) The assignee, purchaser, or transferee of a tax lien, any successor thereof, shall be subject to applicable tenant protection provisions of § 45-1601 et seq. and § 45-2501 et seq. or any other applicable District law.

(k) The Mayor may issue rules to implement the provisions of this section.

(l) The powers granted under this section shall be exercised from time to time by that official delegated authority pursuant to § 47-317.1.

(m) For a period of not more than 6 months following the completion of the transaction, the District shall have the right to substitute a lien of equal value for similar property, where the district has determined that a particular property should be excluded from the tax lien portfolio. (Feb. 28, 1898, 30 Stat.

250, ch. 32, § 2d as added Sept. 9, 1996, D.C. Law 11-153, § 3(a), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1304. Same — Deposit required; certificate of sale; tax deed; redemption.

(a) The Collector of Taxes shall require from every purchaser of property sold as aforesaid a deposit sufficient, in his judgment, to guarantee a full and final settlement for such purchase. Every purchaser other than the District of Columbia at any sale of property as aforesaid shall pay the full amount of his bid, including surplus, if any, to the Collector of Taxes within 5 days after the last day of sale, and in case such payment is not made within the time specified the deposit of the person so failing to make payment shall be forfeited to the District of Columbia, and said Collector of Taxes shall then issue the certificate of sale for such property to the next highest bidder, and if payment of the amount of the bid of said next highest bidder be not made within 2 days thereafter, the Mayor of the District of Columbia shall set aside both sales for which the bids were made; and the said Collector of Taxes shall thereupon be held to have bid the amount due on the said lot and to have purchased it for the District. Immediately after the close of the sale, upon payment of the purchase money, the said Collector of Taxes shall issue to the purchaser a certificate of sale, and if the property shall not be redeemed by the owner or owners thereof within 6 months from the last day of sale, by payment to the Collector of Taxes of said District, for the use of the legal holder of the certificate, the amount for which it was sold at such sale, exclusive of surplus, and 1½% thereon for each month or part thereof, a deed shall be given by the Mayor of the District, or his successors in office, to the purchaser at such tax sale, his heirs or devisees, or to the assignee of such certificates, which deed shall be admitted and held to be prima facie evidence of a good and perfect title in fee simple to any property bought at said sale herein authorized; provided, that no deed shall be issued unless application therefor be made within 5 years from the last day of sale, and if no such application be made then the owner of any property sold as aforesaid, or any other person having an interest therein at the time of redemption, may redeem the property by paying to the Collector of Taxes for the legal holder of the certificate the amount for which it was sold at such sale, exclusive of surplus, plus interest thereon for the first 6 months after the date of such certificate of sale at the rate hereinabove provided, and for 3 years thereafter at the rate of 6% per annum; that when the said property is redeemed as aforesaid, the Collector of Taxes shall, within 5 days thereafter notify the owner of record of such tax sale certificate at his last-known address, by registered mail or by certified mail, of the redemption of such certificate; that within 5 years from the time that payment has been made to the Collector of Taxes to redeem such tax sale certificate, the owner thereof may apply for, and, upon the surrender of the certificate, shall receive from the District of Columbia the payment made as hereinbefore prescribed; that upon the failure of the owner of such tax sale certificate to apply within the period of 5 years, as hereinbefore prescribed, such money shall be forfeited to the District of

Columbia, and be deposited by the Collector of Taxes in the Treasury of the United States to the credit of the general revenues of the District of Columbia; provided, that no deed shall be issued until all taxes and assessments appearing upon the tax books against the property are paid, with penalties, interests, and costs, including taxes for the years for which the District purchased the property at tax sale; provided, that no property advertised as aforesaid shall be sold upon any bid not sufficient to meet the amount of tax, penalty, and costs; but in case the highest bid on any property is not sufficient to meet the taxes, penalties, and costs thereon said property shall thereupon be bid off by the said Collector of Taxes, in the name of the District of Columbia; but the property so bid off shall not be exempted from assessment and taxation, but shall be assessed and taxed as other property; and if within 6 months thereafter such property is not redeemed by the owner or owners thereof, or their legal representatives, by the payment of the taxes, penalties and costs due at the time of the sale and that may have accrued after that date, and 1-½% thereon for each month or part thereof, or if any property 6 months after having been so bid off at any sale in the name of said District under §§ 47-1301 to 47-1310 or any other law in force is not or has not been so redeemed as aforesaid (unless it shall be shown that the sale for taxes was irregular and void), then the Mayor of the District, or his successors, shall in the name of and on behalf of the District of Columbia, sell said property at public or private sale and issue to any purchaser of such property a deed, which deed shall have the same force and effect as the deed hereinbefore provided for in this section for property sold at the regular annual sale; provided, however, that no deed shall be issued until all assessments, taxes, costs, and charges due the District, of whatsoever nature, shall have been paid in full; and provided also, that minors or other persons under legal disability be allowed 1 year after attaining full age or after the removal of such legal disability to redeem the property so sold, or bid off by the Collector of Taxes in the name of the District of Columbia as aforesaid, from the purchaser or purchasers, his, her, or their assigns, or from the District of Columbia, on payment of the amount of purchase money so paid therefor, with 8% per annum interest thereon as aforesaid, together with all taxes and assessments that have been paid thereon by the purchaser or his assigns between the day of sale and the period of redemption with 8% per annum interest on the amount of such taxes and assessments. When such property is redeemed from a purchaser other than the District of Columbia, and when such property shall be redeemed from the District of Columbia, it shall, except as to the period of redemption, be upon the terms and conditions hereinabove provided for in the case of redemption by persons not under legal disability; provided, however, that failure on the part of the District, from any cause whatsoever, to enforce the liens acquired aforesaid shall not release the property from any tax whatsoever that may be due the District; provided further, that at any time after any property shall have been bid off as aforesaid by the Collector of Taxes, and before the expiration of the time allowed for the redemption thereof, the Collector of Taxes of said District, may issue to any person or persons, upon the payment of a sum not less than the aggregate amount of the taxes, penalties, and costs

due at the time the property was bid off by the Collector and that may have accrued after that date, a certificate of sale, and if the property shall not be redeemed by the owner or owners thereof within 6 months from the date of such certificate, by payment to the Collector of Taxes of said District, for the use of the legal holder of the certificate, the amount exclusive of surplus paid by the person or persons to whom such certificate was issued and 1-½% thereon for each month or part thereof, a deed shall be given by the Mayor of the District of Columbia, or his successors in office, to the legal holder of such certificate, which deed shall have the same force and effect as the deed hereinbefore provided for in this section for property sold at the regular annual sale; and that the foregoing provisions in this section in reference to the sale at public or private sale of property in the District of Columbia advertised for sale for taxes and bid off by the Collector of Taxes be, and the same are also hereby, made applicable to all property in the District of Columbia subject to taxation where taxes levied and in arrears on July 1, 1897, or at any time prior thereto, have not been paid, and which at any sale held previous to said date were bid off in the name of the District of Columbia; and when for any reason any tax sale of real property in the District of Columbia may be set aside or canceled, such property may be readvertised and sold at the next ensuing annual sale.

(b) The time period for redemption of properties brought to tax sale under § 47-1205(b), shall be 6 months.

(c) The time period for redemption of properties brought to tax sale under § 6-2907(f) shall be 6 months.

(d) The time period for redemption of property brought to tax sale under § 43-1529, § 43-1609, or § 43-1610, shall be 180 days.

(e) Notwithstanding any other provision of law, no deed shall be issued for any property sold at the tax sale conducted in July 1995 and any tax sale thereafter, unless an application by the purchaser for the deed is made within 1 year from the last day of the tax sale.

(f) If no application for the deed is made within the 1-year period, the property will be sold at the next ensuing tax sale.

(g) Upon the failure of the purchaser to apply for the deed within 1 year from the last day of the tax sale, any money paid by the tax sale purchaser in exchange for a tax sale certificate shall be forfeited to the District of Columbia. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 3; July 1, 1902, 32 Stat. 633, ch. 1358, § 1(3); June 25, 1938, 52 Stat. 1201, ch. 702, § 9; Feb. 22, 1944, 58 Stat. 20, ch. 29; June 11, 1960, 74 Stat. 203, Pub. L. 86-507, § 1(52); 1973 Ed., § 47-1003; Aug. 9, 1986, D.C. Law 6-135, § 14(a), 33 DCR 3771; Sept. 20, 1989, D.C. Law 8-31, § 5(a), 36 DCR 4750; June 13, 1990, D.C. Law 8-136, § 9(a)(1), 37 DCR 2620; Mar. 23, 1995, D.C. Law 10-253, § 107(b), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 109(b), 42 DCR 3684; Sept. 9, 1996, D.C. Law 11-153, § 3(b), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to penalties for violations of the Litter Control Administration Act of 1985, see § 6-2907.

As to receipt of certified mail return receipts as prima facie evidence of delivery, see § 14-506.

As to enforcement of liens on real estate for unpaid taxes, see §§ 47-1312 to 47-1315.

Section references. — This section is referred to in §§ 6-2907, 43-1529, 47-1205, and 47-1305.

Effect of amendments. — D.C. Law 11-52

substituted "6 months" for "2 years" throughout (a); and added (e), (f), and (g).

D.C. Law 11-153 substituted "1 ½%" for "1%" in (a).

Emergency act amendments. — For temporary amendment of section, see § 109(b) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of D.C. Act 11-124, provided for the application of the act.

Legislative history of Law 6-135. — Law 6-135, the "Homestead Housing Preservation Act of 1986," was introduced in Council and assigned Bill No. 6-168, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on May 27, 1986 and June 10, 1986, respectively signed by the Mayor on June 13, 1986, it was assigned Act No. 6-173 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-31. — Law 8-31, the "District of Columbia Solid Waste Regulation Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-135, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-54 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-136. — See note to § 47-1303.

Legislative history of Law 10-253. — See note to § 47-1301.

Legislative history of Law 11-52. — See note to § 47-1301.

Legislative history of Law 11-153. — See note to § 47-1303.4.

Application of §§ 104(c), 109(b), (c), and (d), 110, and 111 of Law 11-52. — Section 1602 of D.C. Law 11-52 provided that the provisions of sections 104(c), 109(b), (c) and (d) 110, and 111 of that act shall apply to the real property tax sale conducted in July 1995 and for each sale conducted thereafter.

Office of Collector of Taxes abolished. — See note to § 47-401.

Tax sale is not a government taking for which just compensation must be paid under the Constitution. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Government lacks authority to convey for less than amount due. — The District government has no authority to convey property for less than all the assessments, taxes, costs, penalties, and charges due the District. *W.C. & A.N. Miller Dev. Co. v. Emig Properties Corp.*, 134 F.2d 36 (D.C. Cir.), cert. denied, 318 U.S. 788, 63 S. Ct. 983, 87 L. Ed. 1155 (1943).

Judicial sale under § 47-1312 is an additional method for collecting taxes and does not replace or add to administrative sale procedures. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Priority of purchaser. — This section indicates that a later tax sale purchaser would generally prevail over a prior bid off of the property to the District, as long as the District was paid for those prior taxes as well. *Massie v. District of Columbia*, App. D.C., 634 A.2d 1226 (1993).

The District could not obtain title to property where, absent its own delay in issuing the deed, the District would have no sound basis for a superior claim on the property. *Massie v. District of Columbia*, App. D.C., 634 A.2d 1226 (1993).

The District could not obtain title to property where, absent its own delay in issuing the deed, the District would have no sound basis for a superior claim on the property. *Massie v. District of Columbia*, App. D.C., 634 A.2d 1226 (1993).

Payment of taxes each year after sale not required. — This section does not require a purchaser at a tax sale to pay the taxes each year thereafter to protect his or her interest. *Irving v. District of Columbia*, App. D.C., 665 A.2d 980 (1995), cert. denied, — U.S. —, 116 S. Ct. 1264, 134 L. Ed. 212 (1996).

Subsequent bid-off by District did not divest purchaser. — Purchasers, once they had complied with all the statutory requirements at a tax sale, acquired a conditional interest in the property which was not divested by the District's subsequent bid-off. *Irving v. District of Columbia*, App. D.C., 665 A.2d 980 (1995), cert. denied, — U.S. —, 116 S. Ct. 1264, 134 L. Ed. 212 (1996).

Government priority in proceeds from tax sale. — Where private and public claims compete for the proceeds from a condemnation or tax sale, payment to the government takes priority over satisfaction of private interests. *District of Columbia Redevelopment Land Agency v. Eleven Parcels of Land*, 589 F.2d 628 (D.C. Cir. 1978).

Penalties on delinquent taxes have same status as the principal debt. *District of Columbia Redevelopment Land Agency v. Eleven Parcels of Land*, 589 F.2d 628 (D.C. Cir. 1978).

Title evidenced by tax deed expunges all interests which spring from record title and vests in the holder a new and complete title to the property in fee simple. *W.C. & A.N. Miller Dev. Co. v. Emig Properties Corp.*, 134 F.2d 36 (D.C. Cir.), cert. denied, 318 U.S. 788, 63 S. Ct. 983, 87 L. Ed. 1155 (1943).

And will's trustee must protect beneficial interests. — Where interests under a will have apparently been extinguished by a valid

tax title to a stranger, the burden is on the trustee to act for the protection of the beneficial interests. *W.C. & A.N. Miller Dev. Co. v. Emig Properties Corp.*, 134 F.2d 36 (D.C. Cir.), cert. denied, 318 U.S. 788, 63 S. Ct. 983, 87 L. Ed. 1155 (1943).

No inchoate right of dower is passed by a tax deed. *Cobb v. Shore*, 183 F.2d 980 (D.C. Cir. 1950).

Tax deed does not extinguish easement appurtenant that was created by written conveyance. *Engel v. Catucci*, 197 F.2d 597 (D.C. Cir. 1952); *Fields v. District of Columbia*, 443 F.2d 740 (D.C. Cir. 1970).

Nor make junior District lien superior to senior federal lien. — The provision that the District's tax deed shall be prima facie evidence of a good and perfect title in fee simple is not to be interpreted as indicating a Congressional intent that a junior District lien shall be superior to a senior federal lien. *Cobb v. United States*, 172 F.2d 277 (D.C. Cir. 1949).

Legal disability. — Term "legal disability," is not defined nor has it been interpreted in previous cases in this jurisdiction. *Nelson-Bey v. Robinson*, App. D.C., 408 A.2d 999 (1979).

"Legal disability" is condition personal to property owner. *Bynes v. Scheve*, App. D.C., 435 A.2d 1058 (1981).

Standard used under this section for determining disability is essentially same as that used in former § 21-1501 (now see § 21-2001 et seq.) for appointment of a conservator. *Robinson v. Jones*, App. D.C., 429 A.2d 1372 (1981).

Statute does not dispense with performance of tax sale requirements. — Even where a statute makes a tax deed prima facie evidence of the regularity of the proceedings, such a statute does not dispense with the performance of all the requirements of the law prescribing how land may be sold for taxes. *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985).

Criteria for proving disability. — To prove disability under this section, defendants must prove that by reason of advanced age, mental illness or instability, mental defect or physical incapacity, they did not appreciate their obligation to pay taxes and were thus unable to care for their property. *Robinson v. Jones*, App. D.C., 429 A.2d 1372 (1981).

Burden of proof for disabled owner seeking redemption. — When a property owner seeks extension of the period for redemption of his property from a tax sale on the ground of "legal disability" under this section, the trial court must determine whether that person has proved by a preponderance of the evidence that at the relevant time he was

unable properly to care for his property and thus qualified for appointment of a conservator under former § 21-1501 (now see § 21-2001 et seq.). *Bynes v. Scheve*, App. D.C., 435 A.2d 1058 (1981).

Neither conservator nor ward must wait for removal of disability to redeem property from a tax sale. *Shenandoah Corp. v. Jackson*, 298 F.2d 324 (D.C. Cir.), cert. denied, 370 U.S. 909, 82 S. Ct. 1255, 8 L. Ed. 2d 403 (1962).

Following equitable redemption, certificate's purchaser entitled to repayment. — In light of a redemption made on equitable grounds, after the expiration of the statutory period, the relief available to the purchaser of the tax certificate is repayment of the money he paid to the District. *Robinson v. District of Columbia*, App. D.C., 372 A.2d 1005 (1977).

Tax sale purchaser entitled to condemnation proceeds where property condemned after redemption period expired. — Where property which has been sold at a tax sale is condemned after the expiration of the period of redemption, the tax sale purchaser, and not the delinquent taxpayer owner, is entitled to the condemnation proceeds, provided he complies with the provisions of this section. *District of Columbia v. All of Lot 9, Square 5148*, 110 WLR 469 (Super. Ct. 1982).

Time of payment. — Where the statutory time of 5 days from date of sale to pay amount of bid was extended 5 days because tear gas explosion closed the Treasurer's office, payment date of 12 days after sale set by Treasurer was not timely compliance and the tax deed was void. *Scheve v. Short*, 114 WLR 2601 (Super. Ct. 1986).

Evidence was sufficient to find that the purchase price was paid in full within five days after the tax sale where the receipt dated on the 6th day was also stamped received prior to validation date. *Keatts v. Robinson*, App. D.C., 544 A.2d 716 (1988).

Amount of deposit. — A customary deposit of \$20,000 by a professional tax deed purchaser which turned out to be only 5% of all of that purchaser's bids at the sale was not in compliance with the 20% requirement even though this practice had been permitted for 20 years. *Scheve v. Short*, 114 WLR 2601 (Super. Ct. 1986).

Cited in *Gray Properties, Inc. v. Tobriner*, 357 F.2d 829 (D.C. Cir. 1966); *Industrial Bank v. Tobriner*, 405 F.2d 1321 (D.C. Cir. 1968); *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981); *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982); *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992).

§ 47-1305. Same — Applicability of changed interest rates.

The amendments of § 47-1304 by Act June 25, 1938, shall apply only to tax sales held after June 25, 1938, and § 47-1304, without said amendments, shall remain in full force and effect as to all tax sales held prior to June 25, 1938. (June 25, 1938, 52 Stat. 1201, ch. 702, § 9(d); 1973 Ed., § 47-1004; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

References in text. — The reference to "Act June 25, 1938" is a reference to 52 Stat. 1201,

ch. 702, approved June 25, 1938, which is codified at §§ 47-401, 47-1206, 47-1304, and 47-1305.

§ 47-1306. Same — Right of redemption.

(a) The owner of any property sold as aforesaid, or any other person having an interest therein at the time of redemption, may redeem the same from such sale at any time within 6 months after the last day of sale by paying to the Collector of Taxes, for the use of the purchaser, his heirs and assigns, the sum mentioned in the certificate of sale therefor, exclusive of surplus with interest thereon at the rate of 18% per annum after the date of such certificate of sale.

(b) The time period for redemption of properties brought to tax sale under § 47-1205(b), shall be 6 months.

(c) The time period for redemption of properties brought to tax sale under § 6-2907(f), shall be 6 months.

(d) The time period for redemption of property brought to tax sale under § 43-1529, § 43-1609, or § 43-1610, shall be 180 days. (Feb. 28, 1898, 30 Stat. 250, ch. 32, § 4; July 1, 1902, 32 Stat. 635, ch. 1358, § 1(4); 1973 Ed., § 47-1005; Aug. 9, 1986, D.C. Law 6-135, § 14(b), 33 DCR 3771; Sept. 20, 1989, D.C. Law 8-31, § 5(b), 36 DCR 4750; June 13, 1990, D.C. Law 8-136, § 9(a)(2), 37 DCR 2620; Mar. 23, 1995, D.C. Law 10-253, § 107(c), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 109(c), 42 DCR 3684; Sept. 9, 1996, D.C. Law 11-153, § 3(c), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to penalties for violations of the Litter Control Administration Act of 1985, see § 6-2907.

Section references. — This section is referred to in §§ 6-2907, 47-1205 and 47-1304.

Effect of amendments. — D.C. Law 11-52 substituted "6 months" for "2 years" in (a).

D.C. Law 11-153 substituted "18%" for "12%" in (a).

Emergency act amendments. — For temporary amendment of section, see § 109(c) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of D.C. Act 11-124 provided for application of the act.

Legislative history of Law 6-135. — See note to § 47-1304.

Legislative history of Law 8-31. — See note to § 47-1304.

Legislative history of Law 8-136. — See note to § 47-1303.

Legislative history of Law 10-253. — See note to § 47-1301.

Legislative history of Law 11-52. — See note to § 47-1301.

Legislative history of Law 11-153. — See note to § 47-1303.4.

Application of §§ 104(c), 109(b), (c) and (d), 110, and 111 of Law 11-52. — Section 1602 of D.C. Law 11-52 provided that the provisions of §§ 104(c), 109(b), (c), and (d), 110, and 111 of that act shall apply to the real property tax sale conducted in July 1995 and for each sale conducted thereafter.

Office of Collector of Taxes abolished. — See note to § 47-401.

Common-law rule not incorporated in this section. — The common-law rule of reason and convenience, which permits on a Monday the exercise of rights which expire on a Sunday, is not incorporated in this section. *Watson v. Scheve*, App. D.C., 424 A.2d 1089 (1980).

Provisions supply procedure to obtain tax information. — The delinquency tax provisions supply a remedial procedure by which to obtain the necessary information where there has been a refusal to file a tax return as requested by law. *Tumulty v. District of Columbia*, 102 F.2d 254 (D.C. Cir. 1939).

Acquisition of inchoate interest by purchaser. — Neither the private purchaser nor the District obtains immediate title to the property; rather, a tax sale purchaser—private or public—acquires an inchoate interest in the property that will not ripen into title for two years following the tax sale. *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

Notice of expiring redemption period necessary before conveying property. — The D.C. Council's regulatory requirement that record owners "be notified" of the expiring redemption period embodies a requirement that the Department of Finance and Revenue undertake reasonable efforts to provide actual notice to the record owner when, because of the return of the required notice of expiring redemption period marked "unclaimed," the department knows that the record owner did not receive that notice required by the regulation. *Malone v. Robinson*, App. D.C., 614 A.2d 33 (1992).

The regulation which requires notice to the property owner by certified or registered mail of

the final date of redemption must be construed to require that when notice is returned by the Post Office marked "unclaimed," and hence the District authorities know that the record owner did not receive the notice required by the regulation, the District must take reasonable additional action to contact the record owner. *Gore v. Newsome*, App. D.C., 614 A.2d 40 (1992).

Purchaser remedies. — The tax sale statutes in this jurisdiction provide specific remedies for the tax sale purchaser who has bid on a property but who ultimately does not obtain title to it. *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

Following equitable redemption, certificate's purchaser entitled to repayment. — In light of the owner's redemption of her property on equitable grounds, after the expiration of the statutory period, the relief available to the purchaser of the tax certificate is the repayment of the money he paid to the District. *Robinson v. District of Columbia*, App. D.C., 372 A.2d 1005 (1977).

Return of payments held sole purchasers' remedy. — The sole remedy available against the District for failure to issue tax deeds after purchase of property held to be the return of the purchasers' payments, with interest, and not its fair market value. *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

Cited in *Industrial Bank v. Tobriner*, 405 F.2d 1321 (D.C. Cir. 1968); *Bynes v. Scheve*, App. D.C., 435 A.2d 1058 (1981); *Robinson v. Hopkins*, App. D.C., 445 A.2d 958 (1982); *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985).

§ 47-1307. Same — Report to be filed with Recorder of Deeds; disposition of surplus; redemption.

(a) The Collector of Taxes shall, within 20 days, exclusive of Sundays and legal holidays, after the last day of the sale hereinbefore provided for as aforesaid, file with the Recorder of Deeds a written report, in which he shall give a statement of the property sold, other than that sold to the District of Columbia, to whom it was assessed, the taxes due, to whom sold, the amount paid, the date of sale, the cost thereof, and the surplus, if any. Any surplus remaining after the collection of taxes, penalties, and costs on any real estate shall be collected as hereinbefore provided for, and shall be deposited by the Collector of Taxes to the credit of the Surplus Fund, to be paid to the owner or owners, or their legal representatives, in the same manner as other payments made by the District; provided, that if any property sold for taxes, as herein provided, is redeemed from such sale within 6 months from last day of sale, any surplus paid at time of sale shall be paid by the District of Columbia to the legal holder of certificate of sale.

(b) The time period for redemption of properties brought to tax sale under § 47-1205(b), shall be 6 months.

(c) The time period for redemption of properties brought to tax sale under § 6-2907(f), shall be 6 months.

(d) The time period for redemption of property brought to tax sale under § 43-1529, § 43-1609, or § 43-1610, shall be 180 days. (Feb. 28, 1898, 30 Stat. 252, ch. 32, § 5; July 1, 1902, 32 Stat. 635, ch. 1358, § 1(5); 1973 Ed., § 47-1006; Aug. 9, 1986, D.C. Law 6-135, § 14(c), 33 DCR 3771; Sept. 20, 1989, D.C. Law 8-31, § 5(c), 36 DCR 4750; June 13, 1990, D.C. Law 8-136, § 9(a)(3), 37 DCR 2620; Mar. 23, 1995, D.C. Law 10-253, § 107(d), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 109(d), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 6-2907, 47-1205 and 47-1304.

Effect of amendments. — D.C. Law 11-52 substituted "6 months" for "2 years" in (a).

Emergency act amendments. — For temporary amendment of section, see § 109(d) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of D.C. Act 11-124 provided for the application of the act.

Legislative history of Law 6-135. — See note to § 47-1304.

Legislative history of Law 8-31. — See note to § 47-1304.

Legislative history of Law 8-136. — See note to § 47-1303.

Legislative history of Law 10-253. — See note to § 47-1301.

Legislative history of Law 11-52. — See note to § 47-1301.

Application of §§ 104(c), 109(b), (c) and (d), 110 and 111 of Law 11-52. — Section 1602 of D.C. Law 11-52 provided that the provisions of sections 104(c), 109(b), (c) and (d), 110, and 111 of that act shall apply to the real property tax sale conducted in July 1995 and for each sale conducted thereafter.

Office of Collector of Taxes abolished. — See note to § 47-401.

Strict compliance with section required. — Failure to strictly comply with all the provisions of this section may suffice to vitiate all subsequent proceedings. *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985) (tax sale and deed voided).

Where a tax sale report was delivered to the

Recorder of Deeds office but was not filed as required by this section and was actually misplaced for a period of time rather than being available for public inspection, a tax deed subsequently issued upon failure of record title holder to redeem was void. *Scheve v. Short*, 114 WLR 2601 (Super. Ct. 1986).

Applicability of reporting requirement. — This section was designed to provide a record of the person to whom tax sale property is sold, the sale price, the amount paid, and the surplus over the amount of taxes owing and such considerations are inapplicable where property is bid off by the District, and there is less need, if any need, for a report under this section in cases where property is "sold" to the District and not to an actual purchaser. *Jones v. District of Columbia*, App. D.C., 585 A.2d 1320 (1990).

Regulation regarding calculation of time valid. — A Department of Finance and Revenue regulation excluding Saturdays, Sundays and legal holidays from the time within which a report must be filed was valid. *Keatts v. Robinson*, App. D.C., 544 A.2d 716 (1988).

Following equitable redemption, certificate's purchaser entitled to repayment. — In light of the owner's redemption of her property on equitable grounds, after the expiration of the statutory period, the relief available to the purchaser of the tax certificate is the repayment of the money he paid to the District. *Robinson v. District of Columbia*, App. D.C., 372 A.2d 1005 (1977).

Cited in District of Columbia Redevelopment Land Agency v. Eleven Parcels of Land, 589 F.2d 628 (D.C. Cir. 1978); *Robinson v. Kerwin*, App. D.C., 454 A.2d 1302 (1982).

§ 47-1308. Same — Invalid sales.

The Mayor of the District of Columbia shall not convey any property sold for taxes if he shall discover, before the conveyance, that the sale was for any cause invalid and ineffectual to give title to the property sold; but he shall cancel the sale and cause the purchase money, together with interest at the rate of 6% per

annum, and the surplus, if any, to be refunded to the purchaser, his representatives or assigns; provided, that if any conveyance made by the Mayor, of property sold for taxes, shall at any time be set aside by decree of any court as invalid, the party in whose favor the decree is rendered shall pay to the party holding such conveyance, his heirs or assigns, the amount paid for such taxes and conveyances, together with interest at the rate of 6% per annum. (Feb. 28, 1898, 30 Stat. 252, ch. 32, § 6; July 1, 1902, 32 Stat. 635, ch. 1358, § 1(6); 1973 Ed., § 47-1007; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

Section limits reimbursement by the District to those instances specified. Cobb v. Shore, 183 F.2d 980 (D.C. Cir. 1950).

Jurisdiction. — When claim for possession failed for lack of a valid tax deed, the trial court, which was limited to the claims cognizable in the Landlord and Tenant Branch, had no authority to entertain and impose any remedy under this section or any other form of relief. Barnes v. Scheve, App. D.C., 633 A.2d 62 (1993).

Purchaser remedies. — Person holding tax title later deemed invalid by any court is entitled to reimbursement for the amount paid for title as well as taxes paid and interest, but a setoff for rentals received by the tax title owners against the amount due them under the statute is proper. Robinson v. Mattox, App. D.C., 500 A.2d 1001 (1985).

The sole remedy available against the District for failure to issue tax deeds after pur-

chase of property held the return of the purchasers' payments, with interest, and not its fair market value. McCulloch v. District of Columbia, App. D.C., 685 A.2d 399 (1996).

The tax sale statutes in this jurisdiction provide specific remedies for the tax sale purchaser who has bid on a property but who ultimately does not obtain title to it. McCulloch v. District of Columbia, App. D.C., 685 A.2d 399 (1996).

Following equitable redemption, certificate's purchaser entitled to repayment. —

In light of the owner's redemption of her property on equitable grounds, after the expiration of the statutory period, the relief available to the purchaser of the tax certificate is the repayment of the money he paid to the District. Robinson v. District of Columbia, App. D.C., 372 A.2d 1005 (1977).

Cited in Boddie v. Robinson, App. D.C., 430 A.2d 519 (1981).

§ 47-1309. Same — Advertising expenses.

The expenses of advertising the notice of sale and delinquent tax list for real property taxes, water charges, sanitary sewer service charges, and special assessments in arrears together with penalties and costs, shall be reimbursed to the District by a charge to be fixed annually by the Mayor and assessed against each lot or piece of property advertised. The amounts so received shall be deposited to such fund of the District as the Mayor shall from time to time determine. (Feb. 28, 1898, 30 Stat. 252, ch. 32, § 7; July 1, 1902, 32 Stat. 635, ch. 1358, § 1(7); May 21, 1928, 45 Stat. 650, ch. 659; 1973 Ed., § 47-1008; Oct. 26, 1973, 87 Stat. 508, Pub. L. 93-140, § 25(b); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

§ 47-1310. Duties of Assessor — Furnishment of information.

The Assessor of the District of Columbia shall furnish information with respect to taxes, special assessments, and valuations to any person having any interest in the property with respect to which such information is requested.

(Feb. 28, 1898, 30 Stat. 252, ch. 32, § 8; July 1, 1902, 32 Stat. 635, ch. 1358, § 1(8); June 25, 1938, 52 Stat. 1201, ch. 702, § 8; 1973 Ed., § 47-1009; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1304.

Office of Assessor abolished. — See note to § 47-413.

§ 47-1311. Same — Preparation of list of sold property.

It shall be the duty of the Assessor for the District of Columbia to prepare and keep in his office, for public inspection, a list of all real estate in the District of Columbia heretofore sold, or which may hereafter be sold, for the nonpayment of any general or special tax or assessment levied or assessed upon the same, said list to show the date of sale and for what taxes sold; in whose name assessed at the time of sale; the amount for which the same was sold; when and to whom conveyed if deeded, or, if redeemed from said sale, the date of redemption. (Feb. 6, 1879, 20 Stat. 283, ch. 50; May 13, 1892, 27 Stat. 37, ch. 74; Mar. 3, 1917, 39 Stat. 1005, ch. 160; June 25, 1938, 52 Stat. 1202, ch. 702, § 11; 1973 Ed., § 47-1010; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Assessor abolished. — See note to § 47-413.

Cited in *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985).

§ 47-1312. Liens for taxes or assessments — Petition to enforce; redemption.

(a) Whenever any real estate in the District of Columbia has been, or shall hereafter be, offered for sale for nonpayment of taxes or assessments of any kind whatsoever, and shall have been bid off in the name of the District of Columbia, and more than 6 months shall have elapsed since such property was bid off as aforesaid and the same has not been redeemed as provided by law, the Mayor of said District may, in the name of the District aforesaid, petition the Superior Court of the District of Columbia to enforce the lien of said District for taxes or other assessments on the aforesaid property by decreeing a sale thereof; and up to the time of the sale hereinafter provided for such property may be redeemed by the owner or other person having an interest therein by the payment of all taxes or assessments due the District of Columbia upon said property and all legal penalties and costs thereon, together with such other expenses as may have been incurred by said District prior to, and as a result of, the filing of the action herein provided for.

(a-1) The lien created by nonpayment of real property taxes is an automatic lien which is perfected whenever full payment including penalty and interest is not made on the due date and shall be a prior and preferred claim over all other liens.

(b) The time period for redemption of properties brought to tax sale under § 47-1205(b), shall be 6 months.

(c) The time period for redemption of properties brought to tax sale under § 6-2907(f), shall be 6 months.

(d) The time period for redemption of property brought to tax sale under § 43-1529, § 43-1609, or § 43-1610, shall be 180 days. (Mar. 2, 1936, 49 Stat. 1153, ch. 111, § 1; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(47); 1973 Ed., § 47-1011; Aug. 9, 1986, D.C. Law 6-135, § 14(d), 33 DCR 3771; Sept. 20, 1989, D.C. Law 8-31, § 5(d), 36 DCR 4750; June 13, 1990, D.C. Law 8-136, § 9(b), 37 DCR 2620; Mar. 23, 1995, D.C. Law 10-253, § 108(a), 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 110, 42 DCR 3684; Sept. 9, 1996, D.C. Law 11-153, § 4(a), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 6-2907, 47-1205, and 47-1315.

Effect of amendments. — D.C. Law 11-52 substituted “6 months” for “2 years” in (a).

D.C. Law 11-153 inserted (a-1).

Emergency act amendments. — For temporary amendment of section, see § 110 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 1602 of D.C. Act 11-124 provided for the application of the act.

Legislative history of Law 6-135. — See note to § 47-1304.

Legislative history of Law 8-31. — See note to § 47-1304.

Legislative history of Law 8-136. — See note to § 47-1303.

Legislative history of Law 10-253. — See note to § 47-1301.

Legislative history of Law 11-52. — See note to § 47-1301.

Legislative history of Law 11-153. — See note to § 47-1303.4.

Application of §§ 104(c), 109(b), (c), and (d), 110, and 111 of Law 11-52. — Section 1602 of D.C. Law 11-52 provided that the provisions of §§ 104(c), 109(b), (c), and (d), 110,

and 111 of that act shall apply to the real property tax sale conducted in July 1995 and for each sale conducted thereafter.

Tax sale is not a government taking for which just compensation must be paid under the Constitution. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Lien for taxes does not arise prior to the occurrence of a delinquency. *Cobb v. United States*, 172 F.2d 277 (D.C. Cir. 1949).

Judicial sale under this section is an additional method for collecting taxes and does not replace or add to administrative sale procedures. *Industrial Bank v. Sheve*, 307 F. Supp. 98 (D.D.C. 1969).

Sale of real property for nonpayment of taxes does not extinguish an easement with which the property is burdened. *District of Columbia v. Capital Mtg. & Title Co.*, 84 F. Supp. 788 (D.D.C. 1949).

Cited in *District of Columbia Redevelopment Land Agency v. Eleven Parcels of Land*, 589 F.2d 628 (D.C. Cir. 1978); *District of Columbia v. Franklin Inv. Co.*, App. D.C., 404 A.2d 536 (1979); *Wolf v. Sherman*, App. D.C., 682 A.2d 194 (1996); *McCulloch v. District of Columbia*, App. D.C., 685 A.2d 399 (1996).

§ 47-1313. Same — Notice to record owner; proper parties defendant; court order; validity of judicial service and sale.

Before any such action shall be instituted, the Mayor shall cause notice to be given in the name appearing upon the records of the Assessor as the owner of such property, by registered mail or by certified mail directed to the last-known address of such person, and by publication once a week for 3 successive weeks in some daily newspaper published and circulated generally in the District of Columbia, against said person and “all other persons having or claiming to have any right, title, or interest in or to the real estate proposed to be proceeded against, their heirs, devisees, executors, administrators, and assigns,” by such designation, to appear before him on a day certain, which day shall be at least 10 days after the last publication of said notice, and show cause, if any they have, why the said real estate should not be proceeded

against. For the purpose of the proceedings herein provided for, the person appearing by the Assessor's records, at the time of the first publication of notice, as the owner of such property, and any other persons who may appear in response to the publication aforesaid and claim to have an interest in such property, shall be deemed proper parties defendant in any such proceedings. Upon the filing of the petition aforesaid, the Court shall enter an order directed to the person or persons named as defendants therein and "to all other persons having or claiming to have any right, title, or interest in the real estate proposed to be sold, their heirs, devisees, executors, administrators, and assigns," by such designation, directing them to appear on a day certain, which day shall be not less than 30 days after the date of the last publication of said order, and show cause, if any they have, why said real estate should not be proceeded against and sold. The said order shall be published once a week for 3 successive weeks in some daily newspaper published and circulated generally in the District of Columbia, and such publication shall be considered as sufficient service upon such person or persons as cannot be found by the Marshal within the District of Columbia or who are nonresident or unknown, their heirs, devisees, executors, administrators, and assigns; and the proceedings or sale of such real estate shall not be rendered invalid if the true owner or owners or any other person or persons having any right, title, or interest in said real estate shall not be included as a party to the suit, if it shall appear that the publication herein provided for shall have been duly made. (Mar. 2, 1936, 49 Stat. 1154, ch. 111, § 2; June 11, 1960, 74 Stat. 203, Pub. L. 86-507, § 1(53); 1973 Ed., § 47-1012; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to receipt of certified mail return receipts as prima facie evidence of delivery, see § 14-506.

Section references. — This section is referred to in § 47-1315.

Office of Assessor abolished. — See note to § 47-413.

Constitutional to mail notices to deceased record owner. — The heirs at law of a

deceased record owner are not deprived of due process of law by a tax sale of their property without actual notice where the District mails the required notices to the record owner. *Moore v. Government of D.C.*, App. D.C., 332 A.2d 749 (1975).

Cited in *Frassetto v. Barry*, App. D.C., 497 A.2d 109 (1985); *Gore v. Newsome*, App. D.C., 614 A.2d 40 (1992).

§ 47-1314. Same — Sale of property.

Upon proof in said suit of the failure of the owner of any such property to redeem the same as provided by law, the Court shall, without unreasonable delay, decree a sale of the property to satisfy the lien of the District of Columbia for taxes, assessments, penalties, interest, and costs, and any other costs or expenses that have been incurred by said District prior to or after the institution of suit and in connection therewith, which said costs shall include Court costs and reasonable attorney fees. All such sales shall be conducted by the Collector of Taxes or his Deputy, by public auction either in the office of said Collector or in front of the premises to be sold, as the Court may determine, after advertisement for 10 consecutive days in some daily newspaper published and circulated generally in the District of Columbia; provided, that if it shall appear that there were any substantial defects in any tax sale no part of

the penalties and charges incidental to such sales shall be collectible; but nothing herein contained shall in any wise affect any cost incurred by the District of Columbia in the institution and prosecution of the suit. (Mar. 2, 1936, 49 Stat. 1154, ch. 111, § 3; 1973 Ed., § 47-1013; Sept. 9, 1996, D.C. Law 11-153, § 4(b), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1315.

Effect of amendments. — D.C. Law 11-153 substituted “and reasonable attorney fees” for “but in no such case shall there be any allowance by the Court of a docket fee, attorney’s fee, or trustee’s commission” in the first sentence.

Legislative history of Law 11-153. — See note to § 47-1303.4.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-1315. Same — Confirmation of sale; amount payable; disposition of surplus; delivery of deed.

Every such sale shall be reported to and confirmed by said equity Court, and no sale shall be made for an amount less than such aggregate taxes, interest, and costs incurred in the institution of suit, including advertising and sale, unless by express order of the Court. Any surplus remaining from sales made under §§ 47-1312 to 47-1315 shall be paid by the Collector of Taxes into the registry of the Court, to abide its further order for payment to the person or persons entitled thereto; and any such moneys remaining unclaimed for a period of 5 years after confirmation of any such sale shall be paid into the Treasury of the United States and credited to the revenues of the District of Columbia. Upon confirmation of such sale by order of Court and payment of the purchase price, and upon full compliance with all of the terms of sale, the Clerk of the Court shall execute and deliver to the purchaser a deed to the property so sold, which deed shall convey to said purchaser all of the right, title, and estate of all persons whether named in such suit or not. (Mar. 2, 1936, 49 Stat. 1155, ch. 111, § 4; 1973 Ed., § 47-1014; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Office of Collector of Taxes abolished. — See note to § 47-401.

Courts should not search for technical grounds to set aside conveyance. — If the proceedings on which a tax sale is predicated

substantially comply with the statutory directions, courts should not search for technical grounds on which to set aside the conveyance. *Deming v. Turner*, 63 F. Supp. 220 (D.D.C. 1945).

§ 47-1316. Errors in computation not to affect sales.

No sale of any real property for taxes shall be impaired or made void by reason of any error of the proper officers in making a computation of the amount of taxes due, the expenses attendant on the advertisement and sale, or of the purchase money and the interest thereon, notwithstanding the sum erroneously computed may have been paid by the purchaser, his heirs or assigns; but all such sales and the deeds which may be granted on the certificates then issued shall be valid and binding as if no such error had been

made. (R.S., D.C., § 173; 1973 Ed., § 47-1015; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to contrary provision for delinquency sale of family dwelling occupied by owner, see § 47-1104.

§ 47-1317. Refunds — Taxes erroneously paid.

The Mayor of the District of Columbia is hereby authorized and instructed to cause all taxes erroneously paid in the District of Columbia to be refunded by the proper accounting and disbursing officers of said District, upon the certificate of the Collector of such erroneous payment, which certificate shall state the nature of the error, the name of the person or persons by whom such excessive payment was made, and such other particulars as may be necessary to satisfy the accounting officers that such claim for reimbursement is just and equitable; and the said accounting and disbursing officers shall pay all moneys so refunded out of, and charge the same to, the fund which was credited with the erroneous payment. "Taxes" as discussed herein do not include the "special franchise tax" as provided for in § 43-612. (Leg. Assem., Jan. 19, 1872, ch. 31, § 1; June 20, 1874, 18 Stat. 116, ch. 337, § 2; 1973 Ed., § 47-1016; Mar. 14, 1985, D.C. Law 5-153, § 5, 31 DCR 6440; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to refund of taxes where assessments have been held void or erroneous, see § 1-1203.

As to cancellation of street assessments, see § 7-637.

As to other reassessment powers and duties of Mayor, see §§ 7-637, 47-839, and 47-1206.

As to refund of other assessments, rents, contributions, taxes, and fees, see §§ 43-1520, 43-1521, 46-105, and 47-1812.11.

As to waiver of interest or penalties upon unpaid taxes, see § 47-407.

As to refunds on appeal to Superior Court, see § 47-3306.

Legislative history of Law 5-153. — Law 5-153, the "Utility Regulatory Assessment Clarification Act of 1984," was introduced in Council and assigned Bill No. 5-225, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on

first and second readings on October 23, 1984 and November 7, 1984, respectively. Disapproved by the Mayor on November 30, 1984, and reenacted by the Council on December 4, 1984, the Bill was assigned Act No. 5-217 and transmitted to both Houses of Congress for its review.

Disbursing Office abolished. — See note to § 47-111.

Office of Collector of Taxes abolished. — See note to § 47-401.

Refund finality defined by tax provisions. — The requisite finality for a property tax refund is defined by this section and §§ 47-3304 and 47-3306. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Cited in *Potomac Elec. Power Co. v. Public Serv. Comm'n*, App. D.C., 455 A.2d 374 (1982).

§ 47-1318. Same — Money deposited for license.

Whenever any person shall deposit money with the Collector for the purpose of procuring a license, and said license shall have been subsequently refused by legal authority, it shall be the duty of the Collector to refund the money so deposited, deducting therefrom an amount justly proportionate to the time during which such license shall have been used by the applicant therefor, or his representatives, and charge the amount so refunded to the fund which was

credited with the original deposit. (Leg. Assem., Jan. 19, 1872, ch. 31, § 2; 1973 Ed., § 47-1017; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to refund of various fees, see §§ 5-434 and 35-403.

As to fees not being refunded when liquor license is suspended or revoked, see § 25-118.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-1319. Disposition of redemption moneys.

All moneys paid or deposited according to law, for the redemption of property sold for taxes, shall be paid by the accounting and disbursing officers of the District to the person or persons entitled to receive it, on the presentation of the certificate of the Collector. (Leg. Assem., Jan. 19, 1872, ch. 31, § 4; 1973 Ed., § 47-1018; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Disbursing Office abolished. — See note to § 47-111.

Office of Collector of Taxes abolished. — See note to § 47-401.

CHAPTER 14. RESIDENTIAL REAL PROPERTY TRANSFER EXCISE TAX.

Subchapter I. Definitions.

Sec.

47-1401. Definitions.

Subchapter II. Residential Real Property Transfer Excise Tax.

47-1411 to 47-1421. [Expired].

Subchapter III. Compulsory Recordation of Transfers of Real Property.

47-1431. In general.

47-1432. Presumptions and burden of proof.

47-1433. Violations.

Subchapter IV. Licensing of Dealers in Residential Real Property.

47-1441. Definitions.

47-1442. General requirements.

47-1443. Persons prohibited from acquiring license; contents of applications.

47-1444. Issuance and display of license.

47-1445. License expiration, fees and renew-

Sec.

als; change in location of principal place of business.

47-1446. Maintenance of place of business; nonresidents.

47-1447. Grounds for suspension or revocation of license.

47-1448. Rescission of contracts or agreements; suspension or revocation procedures.

47-1449. Mayor to report certain violations to Commission.

47-1450. Annual report by Commission.

47-1451. Regulations and violations thereof.

Subchapter V. Miscellaneous Provisions.

47-1461. Annual report of costs and revenues.

47-1462. Regulations.

Subchapter VI. Severability; Effect of Repeal or Amendment of Other Provisions.

47-1471. In general.

Subchapter I. Definitions.

§ 47-1401. Definitions.

For the purposes of this chapter, unless otherwise indicated:

(1) The term “basis” shall have the same meaning as does that term when determining gain or loss under Subtitle A, Chapter 1, subchapter O, Part II of the Internal Revenue Code (§ 1 et seq. of Title 26, United States Code).

(2) The term “Charter” means Title IV of the District of Columbia Self-Government and Governmental Reorganization Act.

(3) The term “Commission” means the Real Estate Commission of the District of Columbia as established in § 45-1923.

(4) The term “consideration” means the amount paid or required to be paid, or the value exchanged or required to be exchanged, by a transferee to acquire residential real property.

(5) The term “Council” means the Council of the District of Columbia established under § 1-221.

(6) The term “dealer in residential real property” and the term “dealer” means any person who transfers 3 or more residential real properties within a period of 30 months. The following transfers of residential real property (as defined by this subchapter) shall not be considered for the purpose of determining whether the transferor is a dealer:

(A) Transfers prior to the effective date;

(B) Transfers of a transferor’s principal residence (as defined by this subchapter);

(C) Transfers to or by a District of Columbia nonprofit organization which is organized and operated for the purpose of constructing, improving, or

renovating residential real property; provided, that such organization is exempt from federal income taxation under § 501(a) (§ 501(a) of Title 26, United States Code) and is described in § 501(c)(3) (§ 501(c)(3) of Title 26, United States Code) of the Internal Revenue Code. Transfers by such organization must be made in furtherance of the organization's exempt purpose;

(D) Transfers to or by the federal government or the government of the District of Columbia, their agencies and instrumentalities, and the first transfer after the transfer by said governments; provided, that said first transfer after the transfer by said governments is governed by laws and regulations pertaining to a housing or community development program administered by the District or federal government;

(E) Transfers in which the transferee neither gives nor is required to give any consideration in any form (including transfers by gift, deeds of correction, deeds which merely change tenancy, and deeds of trust); provided, that the basis of the property in the hands of the transferee shall be the same as it was in the hands of the transferor;

(F) Transfers where the property being transferred was received by the transferor without giving or being required to give any consideration in any form; provided, that the transferor shall prove by clear and convincing evidence, upon all the facts and circumstances, that the transfer in which the transferor received the property was not made for the purpose of excluding the instant transfer from consideration in determining if the transferor is a dealer (as defined by this subsection). It shall be presumed that the transfer in which the transferor received the property without consideration was made for the purpose of excluding the instant transfer from consideration in determining whether the transferor is a dealer. The regulations prescribed by the Mayor shall set forth the information which will be deemed sufficient to rebut said presumption;

(G) Transfers by devise, or as a result of intestate succession;

(H) Transfers where the property being transferred was received by the transferor by devise or as a result of intestate succession;

(I) Transfers executed by persons in their capacity as court-appointed receivers, referees, administrators, executors, conservators, guardians of the estates of minors, and committees of the estates of persons judicially determined to be mentally incompetent;

(J) The first transfer of property, the construction of which was completed after the effective date (as defined by this subchapter) regardless of when the construction began. The construction of property shall be considered complete at the time such construction is completed to the same extent required for the issuance of a certificate of occupancy, as that term is used in § 5-426. This subparagraph applies only to newly-constructed structures and not to rehabilitated structures;

(K) Foreclosure sales, and the first transfer thereafter if said first transfer is made by the mortgagee who instituted the foreclosure proceedings and purchased the property at the foreclosure sale, or obtained title directly from the defaulting party without a foreclosure sale; provided, that said mortgagee is licensed in the District of Columbia as a bank or other financial institution;

(L) Deeds of release of property where the property was security for a debt or other obligation; and

(M) Transfers by a transferor whose holding period (as defined by this subchapter) for the property being transferred was longer than 36 months.

(7) The term “deed recordation tax” means the tax imposed by § 45-923.

(8) The term “deficiency” shall have the same meaning given to that term by § 47-1801.4(15).

(9) The term “effective date” means the date on which this chapter takes effect according to the provisions of § 1-233(c)(1).

(10) The term “equitable title” means a right in a party to have the legal title to a residential real property (or real property, solely for purposes of subchapter III of this chapter) transferred to such party. The term shall also include any right to receive equitable title by means of an option to purchase or otherwise.

(11) The term “gain” means the excess of the consideration received by a transferor over the transferor’s basis for the property (as defined by this subchapter) transferred.

(12) The term “fair market value” means the price at which a willing seller and a willing buyer will trade or the price which would in all probability have been arrived at between a willing seller and a willing buyer.

(13) The term “holding period” shall have the same meaning as does that term for purposes of § 1223 of the Internal Revenue Code (§ 1223 of Title 26, United States Code).

(14) The term “Internal Revenue Code” means the Internal Revenue Code of 1954 (§ 1 et seq. of Title 26, United States Code) and any amendments thereto.

(15) The term “legal holiday” means any District of Columbia public holiday, including Saturday and Sunday, as designated by § 28-2701.

(16) The term “legal title” means complete and perfect title to residential real property (or real property, solely for purposes of subchapter III of this chapter) in the party to whom such title belongs so far as regards the apparent right of ownership and possession of the residential real property (or real property, solely for purposes of subchapter III of this chapter) but which carries no beneficial interest in the property, another person being equitably entitled thereto.

(17) The term “major appliances” shall include the following appliances if a transferor transfers such appliances when transferring residential real property: Refrigerator, cooking range, oven, dishwasher, garbage disposal, trash compactor, and washer and dryer.

(18) The term “Mayor” means the Mayor of the District of Columbia established under § 1-241.

(19) The term “person” means any individual, firm, partnership, copartnership, joint venture, association, corporation (domestic or foreign), trust, trustee of any estate, or court-appointed receiver.

(20) The term “principal residence” shall have the same meaning as does that term for purposes of § 1034 of the Internal Revenue Code (§ 1034 of Title 26, United States Code); except, that in determining whether a residential real

property is the principal residence of a transferor, in addition to consideration of all the facts and circumstances as provided by § 1034 of the Internal Revenue Code (§ 1034 of Title 26, United States Code), the property must have been the principal residence of the transferor for the 180-day period immediately preceding the transfer.

(21) The term “real covenant” means an agreement between 2 or more persons relating to a property, the terms of which shall be binding on any heir or assign of the promisor under the agreement and which shall be enforceable by the person holding legal title to said property.

(22) The term “real property” means improved as well as unimproved land in the District of Columbia.

(23) The term “residential real property” or “property” means improved real property in the District of Columbia which at any time during the 12 months immediately preceding its transfer contained not more than 4 dwelling units. The term “dwelling unit” shall have the same meaning as given to that term in the Zoning Regulations of the District of Columbia (11 DCMR § 199).

(24) The term “solicitation” means any act which would cause a person to come within the definition of solicitor of residential real property.

(25) The term “solicitor of residential real property” means a person who, without prior invitation from the holder of legal title to a residential real property, offers to purchase or expresses a desire to purchase such property, or in any other way attempts to persuade or induce such holder to sell or otherwise transfer such title.

(26) The term “tax,” “excise” or “excise tax” means the tax imposed by this chapter.

(27) The term “3rd party” means all persons who are not parties to a contract, agreement, or instrument of writing by which their interest in the thing conveyed is sought to be effected.

(28) The term “transfer” means a transaction by which residential real property (or real property, solely for purposes of subchapter III of this chapter), or any title or right to receive any title thereto, or any portion thereof, or any interest therein (except a proprietary lease and a rental lease, unless such rental lease includes an option or right to buy) is either directly or indirectly conveyed, vested, granted, devised, bargained, sold, exchanged or assigned by any document, instrument, writing, agreement, or by any means whatsoever.

(29) The term “transferee” means the person (or persons) to whom a transfer of residential real property (or real property, solely for purposes of subchapter III of this chapter) is made.

(30) The term “transferor” means the person (or persons) who makes a transfer of residential real property (or real property, solely for purposes of subchapter III of this chapter).

(31) The term “vacant” means not occupied by the person having legal title or other title to the property and without other lawful occupants. (1973 Ed., § 47-3301; July 13, 1978, D.C. Law 2-91, § 101, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(1), 30 DCR 390; Apr. 30, 1988, D.C. Law 7-104, § 35(a), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 45-923.

Legislative history of Law 2-91. — Law 2-91, the “Residential Real Property Transfer Excise Tax Act of 1978,” was introduced in Council and assigned Bill No. 2-101, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, second amended first, and second readings on February 21, 1978, March 7, 1978, March 21, 1978 and April 4, 1978, respectively. Signed by the Mayor on April 27, 1978, it was assigned Act No. 2-189 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-209. — Law 4-209, the “District of Columbia Real Estate Licensure Act of 1982,” was introduced in Council and assigned Bill No. 4-230, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-299 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-104. — See note to § 47-363.

Subchapter II. Residential Real Property Transfer Excise Tax.

§§ 47-1411 to 47-1421. Imposition; persons liable; transfers affected; period of applicability; exempt transfers; manner of determination; rate table; development of return forms and quarterly filing regulations and procedures; filing of return and information; payment; required information in return; supporting documentation; applicability of income and franchise tax provisions; willful breach or intentional dishonor of property warranty; annual report by Mayor; promulgation of regulations.

[Expired].

Expiration of subchapter. — Due to a sunset provision contained in § 47-1411(d), the residential real property transfer excise tax imposed by this subchapter applied only during the 3-year period after July 13, 1978, and during the period of effectiveness of D.C. Act

4-60, which was approved on July 20, 1981, and remained in effect for no longer than 90 days. The deletion of the provisions of this subchapter is not intended to affect any existing legal rights or obligations.

Subchapter III. Compulsory Recordation of Transfers of Real Property.

§ 47-1431. In general.

(a) Within 30 days after the execution of a deed or other document by which legal title to real property or an economic interest in real property is transferred, or after a security interest in a real property is given pursuant to a construction loan deed of trust or mortgage or a permanent loan deed of trust or mortgage, or by which a security interest in the real property is conveyed, all transferees of the legal title or economic interest in the real property and all holders of the security interest in real property shall record a fully acknowledged copy of the deed or other document, including the lot and square number

of the real property transferred or encumbered, with the Recorder of Deeds of the District of Columbia. If the 30th day is a Saturday, Sunday, or legal holiday, the time limitation for recording shall be extended to include the first day after the 30th day which is not a Saturday, Sunday, or legal holiday.

(b) Whenever any portion of an instrument, which conveys or provides for the conveyance of equitable title to a real property, is transferred by or on behalf of a party to such instrument to a 3rd party, then the party so transferring shall record, at the same time as provided by subsection (a) of this section, a fully-acknowledged copy of said instrument, including the lot and square number of the real property transferred, with the Recorder of Deeds of the District of Columbia, and the 3rd party shall record, at the same time as provided by subsection (a) of this section, with the Recorder of Deeds of the District of Columbia a fully-acknowledged instrument, including the lot and square number of the property transferred, evidencing the transfer to himself (or herself or itself as the case may be). All subsequent transfers of equitable title made prior to the transfer of legal title shall be recorded by each subsequent transferee thereto, in the same manner and at the same time as provided in subsection (a) of this section. (1973 Ed., § 47-3313; July 13, 1978, D.C. Law 2-91, § 301, 24 DCR 9765; Sept. 13, 1980, D.C. Law 3-92, § 102, 27 DCR 3390; June 14, 1994, D.C. Law 10-128, § 102, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-925, 45-926, 47-1432 and 47-1433.

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned

Act No. 3-214 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

§ 47-1432. Presumptions and burden of proof.

For the purpose of proper administration of this subchapter and to prevent evasion of the recordation requirements, the Mayor shall presume that all transfers, as described in § 47-1431, are required to be recorded. The burden shall be upon the person required to record to prove that a deed or any other document is exempt from the recordation requirement. (1973 Ed., § 47-3314; July 13, 1978, D.C. Law 2-91, § 302, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

§ 47-1433. Violations.

(a) Where a dealer fails to record, as required by § 47-1431, and such failure is due to negligence, there shall be imposed on said dealer, a penalty of \$25 for each month or portion thereof that such failure continues, not to exceed \$250.

(b) [Repealed].

(c) Where a person other than a dealer fails to record, as required by § 47-1431, there shall be imposed on such person a penalty in the amount of \$10 for each month or portion thereof that such failure continues, not to exceed \$50. Whenever it is shown by such person that failure to record was due to reasonable cause and was not due to knowing omission or neglect, the Mayor may waive part of or all of the penalty fee provided by this subsection. In every case of a partial or total waiver, the reason for the waiver shall be stated clearly on a public record determined by the Mayor.

(d) [Repealed].

(e) The penalty fees provided under this section shall be collected at the same time and in the same manner and as a part of the deed recordation tax. If the transaction is exempt from the deed recordation tax, then the Mayor shall collect the fees in a manner prescribed by the Mayor.

(f) If the Mayor determines that a person has failed to record or has failed to pay any fee as required by this chapter, the procedures set forth in § 45-928 shall apply.

(g) Nothing in this chapter shall authorize the imposition of a penalty for the failure to record a deed or any instrument that conveys legal title to real property, if failure to record is due solely to the refusal of the Recorder of Deeds to record the deed or other instrument based on the existence of a lien against the property for unpaid water, sanitary sewer, or meter service charges. (1973 Ed., § 47-3315; July 13, 1978, D.C. Law 2-91, § 303, 24 DCR 9765; Apr. 30, 1988, D.C. Law 7-104, § 35(b), 35 DCR 147; June 13, 1990, D.C. Law 8-136, § 6, 37 DCR 2620; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 8-136 added (g).

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-136. — Law 8-136, the “District of Columbia Water and Sewer Operations Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-269, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the

Mayor on April 17, 1990, it was assigned Act No. 8-192 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 8 of D.C. Law 8-136 provided that within 60 days of June 13, 1990, the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this act including rules regarding deposits, meters, liens, the sale and redemption of real property, the amnesty program, receivership, termination of water and sewer services, and administrative review; that the proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, and, if the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved; and that if after 90 days from June 13, 1990 the Mayor has failed to issue proposed rules to

implement the provisions of this act as provided in subsection (a) of this section, the Council may adopt any legislation necessary to accomplish the purposes of this act.

Delegation of authority under D.C. Law 8-136, the "D.C. Water and Sewer Operations Act of 1990." — See Mayor's Order 91-176, Oct. 24, 1991.

Subchapter IV. Licensing of Dealers in Residential Real Property.

§ 47-1441. Definitions.

For the purposes of this subchapter:

(1) The term "real estate broker" or "broker" shall have the same meaning as given the term "real estate broker" in § 45-1922.

(2) The term "real estate salesperson" or "salesperson" shall have the same meaning as given the term "real estate salesperson" in § 45-1922.

(3) The term "firm," unless otherwise indicated, means a partnership, copartnership, association, corporation (foreign or domestic) or unincorporated business. (1973 Ed., § 47-3316; July 13, 1978, D.C. Law 2-91, § 401, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(2), 30 DCR 390; Apr. 30, 1988, D.C. Law 7-104, § 35(c), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

Legislative history of Law 4-209. — See note to § 47-1401.

§ 47-1442. General requirements.

On and after 180 days from the effective date, it shall be unlawful in the District of Columbia for a dealer to transfer residential real property, other than property which is a dealer's principal residence, without a license issued by the Commission. A dealer's license shall be obtained by a person prior to a transfer which would cause the transferor to be deemed a dealer. When a person required by this subchapter to be licensed as a dealer fails to acquire a license, but demonstrates to the Mayor that such failure was due to reasonable cause and was not due to knowing omission or neglect, the Mayor may waive part or all of any penalty imposed for failure to acquire a license; provided, that lack of knowledge as to any provision of this chapter shall not constitute reasonable cause. (1973 Ed., § 47-3317; July 13, 1978, D.C. Law 2-91, § 402, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

§ 47-1443. Persons prohibited from acquiring license; contents of applications.

(a) A license to act as a dealer under the provisions of this subchapter shall not be issued to any person who has not applied for the license required by this subchapter or whose license to act as a dealer was revoked in the District of

Columbia during the 12-month period immediately preceding the date of the application for said license.

(b) Except as provided in subsection (e) of this section, the application of every firm for a license to be a dealer shall state:

(1) The address or addresses of the principal place or places of business for which the license is desired;

(2) A complete list of all former addresses where the applicant was engaged in any real estate business for a continuous period of at least 30 days;

(3) The name and residence address of each employee, member, officer or associate who participates as a dealer in the applicant's business of dealing in residential real property;

(4) In the case of a corporation, the application shall also state the name and address of each officer, director and registered agent. In the case of a firm other than a corporation, the application shall also state the name and address of each partner, associate, member, or employee who is authorized to accept legal notice on behalf of the organization; and

(5) The address, including lot and square number, of each property located in the District of Columbia, which was transferred in whole or in part by or on behalf of the applicant during the 24-month period immediately preceding the date of the application.

(c) Except as provided in subsection (e) of this section, the application of each individual associated with a firm for a license to be a dealer shall state:

(1) The full name and residence address of the applicant;

(2) The full name and business address of the firm with which such applicant is associated, the length of time such applicant has been so associated, and in what capacity; and

(3) The period of time, if any, during which said applicant was or has been engaged as a real estate broker, salesperson, or dealer, together with a complete list of all former addresses where the applicant was so engaged for a period of 30 days or more preceding the date of application.

(d) Except as provided in subsection (e) of this section, the application of each individual, not affiliated with a firm or other entity, for a license to be a dealer shall state the same information as required in paragraphs (1) and (2) of subsection (c) of this section.

(e) Whenever any applicant for a license to be a dealer is licensed as a real estate broker or real estate salesman in the District of Columbia, such applicant shall not be required to repeat on the application for a dealer's license any information that the applicant has provided on an application for a broker's or salesman's license which is currently on file with the Commission. (1973 Ed., § 47-3318; July 13, 1978, D.C. Law 2-91, § 403, 24 DCR 9765; Apr. 30, 1988, D.C. Law 7-104, § 35(c), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

§ 47-1444. Issuance and display of license.

(a) The Commission shall issue a nontransferable license to each dealer qualifying for such under the provisions of this subchapter. A dealer's license shall be in such form and size as prescribed by the Commission. Every license shall show the name and address of the dealer to whom it is issued, and if applicable, the full name and address of the firm with which said dealer is associated. Each license shall have imprinted thereon the seal of the Commission, and such other matter as shall be prescribed by the Commission. All dealers shall display their licenses conspicuously in their places of business.

(b) No license shall be issued by the Commission to a firm unless every employee, member or officer who participates in such firm as a dealer is licensed as required by this subchapter. (1973 Ed., § 47-3319; July 13, 1978, D.C. Law 2-91, § 404, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

§ 47-1445. License expiration, fees and renewals; change in location of principal place of business.

(a) Every license to be a dealer shall expire on the anniversary date of its issuance.

(b) The fee for the initial dealer's license shall be \$100.

(c) The annual fee for any renewal of a license shall be \$100 in the case of a dealer who transfers 20 or more residential real properties during the 12 months immediately preceding the written request for such renewal; \$75 in the case of a dealer who transfers at least 10 but no more than 19 such properties during said period; \$50 in the case of a dealer who transfers at least 5 but not more than 9 such properties during said period; and \$25 in the case of a dealer who transfers 4 or fewer such properties during said period; provided, that whenever a person licensed in the District of Columbia as a real estate broker or real estate salesperson applies for an initial license to be a dealer or requests renewal thereof, the amount of the fee paid for the broker's or salesperson's license shall be applied toward satisfaction of the fee for a dealer's license. In determining the number of transfers by a dealer during the 12 months immediately preceding the transfer, all transfers made by the dealer (except the transfer of the dealer's principal residence) shall be considered, including transfers made by the dealer prior to being deemed as a dealer.

(d) Notwithstanding subsections (b) and (c) of this section, no fee shall be charged for any initial license or renewal thereof issued to any firm where all of the employees, members, or officers who actively participate in the firm's business of dealing in residential real property have been issued a dealer's license.

(e) On written request of the applicant, upon receipt of the annual fee and in the absence of any reason warranting refusal, the Commission shall renew

each dealer's license annually. The causes for suspension and revocation of a dealer's license as set forth in § 47-1448 shall serve as reasons warranting the Commission to refuse to renew a dealer's license. A dealer must also submit all facts necessary to keep all information in the initial application for a dealer's license accurate, complete, and current. An applicant who, on or before the applicable anniversary date, fails to file the written request to renew and to pay the appropriate renewal fee must comply with all the provisions of this subchapter applicable to a person making an initial application for a dealer's license.

(f) Upon a change in the location of the principal place of business of a dealer, said dealer shall give, in writing, notice of such change to the Commission. The Commission shall prescribe the time within which said notice must be received in order that said notice be considered as timely. At the time notice is given, said dealer must surrender the dealer's license to the Commission. Failure to notify the Commission or to return the license automatically cancels the dealer's license. When timely notice is given to the Commission, it may, without additional fee, issue a new dealer's license for the balance of the year, where applicable; provided, that said dealer files a written request for such new license. (1973 Ed., § 47-3320; July 13, 1978, D.C. Law 2-91, § 405, 24 DCR 9765; Apr. 30, 1988, D.C. Law 7-104, § 35(c), (d), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

§ 47-1446. Maintenance of place of business; nonresidents.

(a) Except as provided in subsection (b) of this section, every dealer licensed under the provisions of this subchapter shall maintain a place of business in the District of Columbia. If a dealer maintains more than 1 place of business within the District of Columbia, a duplicate license shall be issued to such dealer for each additional office maintained. The fee charged for such duplicate license shall not exceed its cost to the District of Columbia.

(b) A nonresident of the District of Columbia may become a dealer by complying with all of the requirements of this title; except, that such nonresident need not maintain a place of business within the District of Columbia.

(c) Every nonresident applicant for a dealer's license shall comply with the provisions of § 45-1929. (1973 Ed., § 47-3321; July 13, 1978, D.C. Law 2-91, § 406, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(3), 30 DCR 390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 4-209. — See note to § 47-1401.

§ 47-1447. Grounds for suspension or revocation of license.

(a) Paragraphs (1), (2), (3), (11), and (12) of subsection (b) of § 45-1936 shall be applicable to dealers as causes for suspension or revocation of a dealer's license.

(b) In addition to subsection (a) of this section, the Commission, may, upon its own motion, and shall, upon the verified complaint in writing of any person (provided such complaint or such complainant together with evidence, documentary or otherwise, presented in connection therewith, establishes a prima facie case), investigate the conduct of any dealer. Within 30 days after the receipt by the Commission of said verified complaint the Commission shall notify said complainant in writing as to its decision or other action taken with regard to the complaint. The Commission shall have the power at any time to suspend or to revoke a license issued under the provisions of this title; provided, that in the case of a knowing violation of paragraphs (1) and (2) of this subsection, the Commission shall at minimum suspend the license for not less than 1 month; provided, further, that the dealer shall be prohibited from signing any additional contracts for the sale of houses for that period, if the dealer has:

(1) [Repealed].

(2) Failed to record a transfer as required by subchapter III of this chapter, or to pay the deed recordation tax, or has made a false or misleading statement in connection with such recordation or recordation tax;

(3) [Repealed].

(4) Violated any of the Commission's regulations pertaining to dealers;

(5) [Repealed].

(6) Violated any of the provisions of § 47-1448(b). (1973 Ed., § 47-3322; July 13, 1978, D.C. Law 2-91, § 407, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(4), 30 DCR 390; Apr. 30, 1988, D.C. Law 7-104, § 35(e), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

Legislative history of Law 4-209. — See note to § 47-1401.

§ 47-1448. Rescission of contracts or agreements; suspension or revocation procedures.

(a) A contract or agreement for the transfer of property shall be rescindable by the transferee, without penalty, at any time before legal title to the property is transferred, if, at the time of the contract or agreement:

(1) The transferor is a dealer; and

(2) The transferor was not duly licensed as a dealer in the District of Columbia.

(b) A contract or agreement for the transfer of property shall be rescindable by the transferor, without penalty, at any time before legal title to the property

is transferred, if the transferor is not a dealer, if the transferee is a dealer, and if the transferee:

(1) Fails to furnish the transferor with a fully executed copy of any contract pertaining to the transfer. The Mayor, within 30 days after the effective date, shall develop procedures governing said contract;

(2) Fails, at the time of the execution of the contract, to furnish a notice to the transferor of his or her right to cancel the contract within a period of time to be determined by the Mayor. The Mayor, within 30 days after the date of enactment, shall develop forms and procedures governing such notice;

(3) Fails, before furnishing copies of such notice of cancellation to the transferor, to fully complete said notice form;

(4) Includes in a contract, a confession of judgment or a waiver of any of the rights to which the transferor is entitled under this section, including specifically his or her right to cancel the transfer;

(5) Misrepresents to the transferor the transferor's right to cancel; or

(6) Fails or refuses to honor any valid notice of cancellation.

(c) Chapter 19 of Title 45 shall apply as the procedures for suspension or revocation of a dealer's license. (1973 Ed., § 47-3323; July 13, 1978, D.C. Law 2-91, § 408, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(5), 30 DCR 390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1445 and 47-1447.

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 4-209. — See note to § 47-1401.

§ 47-1449. Mayor to report certain violations to Commission.

Whenever it comes to the attention of the Mayor that a dealer has failed to record a deed or other document as required by subchapter III of this chapter or to pay the deed recordation tax, or has made a false or misleading statement in connection with such recordation or recordation tax, the Mayor shall, in addition to other enforcement procedures, report such failure to the Commission. (1973 Ed., § 47-3324; July 13, 1978, D.C. Law 2-91, § 409, 24 DCR 9765; Apr. 30, 1988, D.C. Law 7-104, § 35(f), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

§ 47-1450. Annual report by Commission.

The Commission shall report in writing to the Council annually, no later than the first Tuesday in September, on its activities regarding the licensing and disciplining of dealers under the provisions of this subchapter. The report shall include at least the following information for the 12 months immediately preceding the report:

(1) The number of new applications;

(2) The number of initial dealer licenses granted, and renewals thereof;

(3) The number of dealer licenses suspended or revoked and the reason for such action; and

(4) The number and amount of any recoveries on bonds and the reasons therefor. (1973 Ed., § 47-3325; July 13, 1978, D.C. Law 2-91, § 410, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

§ 47-1451. Regulations and violations thereof.

(a) The Mayor shall promulgate regulations to carry out the purposes of this subchapter.

(b) Within 1 year from the effective date, the Commission, after notice and hearings, shall issue regulations establishing standards for the conduct of those soliciting residential real property to insure against harassment, nuisance, misrepresentation, and other unwarranted or abusive practices.

(c) For a violation of the regulations promulgated pursuant to subsection (b) of this section, a solicitor of residential property shall, in addition to any other penalties, be penalized as provided in Chapter 19 of Title 45. (1973 Ed., § 47-3326; July 13, 1978, D.C. Law 2-91, § 411, 24 DCR 9765; Mar. 10, 1983, D.C. Law 4-209, § 35(b)(6), 30 DCR 390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 4-209. — See note to § 47-1401.

Subchapter V. Miscellaneous Provisions.

§ 47-1461. Annual report of costs and revenues.

(a) For the 1st, 2nd, and 3rd year after the effective date and not later than the date on which the Mayor's budget proposal is transmitted to the Council, the Mayor shall report to the Council the total and the net cost of administering the provisions of this chapter. The report shall indicate, by department or branch of the District of Columbia government, the cost of administering each title of this chapter. The report shall also indicate the revenues realized under subchapters III and IV of this chapter (including fees, fines, penalties, and excises).

(b) The report required in subsection (a) of this section shall be in addition to any other report or information that is or shall be required. (1973 Ed., § 47-3327; July 13, 1978, D.C. Law 2-91, § 501, 24 DCR 9765; Apr. 30, 1988, D.C. Law 7-104, § 35(g), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Legislative history of Law 7-104. — See note to § 47-1433.

§ 47-1462. Regulations.

The Mayor shall promulgate regulations necessary to carry out the provisions of this chapter and to develop necessary forms and procedures. All regulations promulgated by the Mayor pursuant to this chapter, including those to be promulgated within 30 days after the effective date, shall be done so consistent with § 1-1501 et seq. If compliance with § 1-1501 et seq. would extend promulgation of the regulations beyond 30 days after the effective date then the time for promulgating the regulations shall be extended to 30 days after compliance with § 1-1501 et seq. (1973 Ed., § 47-3328; July 13, 1978, D.C. Law 2-91, § 502, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

Subchapter VI. Severability; Effect of Repeal or Amendment of Other Provisions.

§ 47-1471. In general.

(a) The provisions of this chapter are severable, and if any provision, sentence, clause, section or part is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such holding shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of the chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid, inapplicable, or unconstitutional provision, sentence, clause, section, or part had not been included herein and if the person or circumstances to which the chapter or any part is inapplicable had been specifically exempted.

(b) The repeal or amendment by this chapter of any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before the effective date or under any suit or proceeding had or commenced before the effective date; but all rights and liabilities under such law shall continue and may be enforced in the same manner and to the same extent as if the repeal or amendment had not been made. (1973 Ed., § 47-3329; July 13, 1978, D.C. Law 2-91, § 601, 24 DCR 9765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-91. — See note to § 47-1401.

CHAPTER 15. TAXATION OF PERSONAL PROPERTY.

Subchapter I. General Provisions.

Sec.

- 47-1501. [Repealed].
- 47-1502. [Repealed].
- 47-1503. [Repealed].
- 47-1504. [Repealed].
- 47-1505, 47-1506. [Repealed].
- 47-1507. [Repealed].
- 47-1508. Exemptions.
- 47-1509. Penalties.
- 47-1510, 47-1511. [Repealed].
- 47-1512. Rolling stock.

Subchapter II. Procedure.

- 47-1521. Definitions.
- 47-1522. Levy of annual tax on personal property.
- 47-1523. Reporting requirement; valuation of property.
- 47-1524. Form of tax return; filing; extensions.

Sec.

- 47-1525. Filing returns; notice to party; records; examination.
- 47-1526. Assessment; collection; deadline; fraudulent returns; extensions.
- 47-1527. Failure to file or fraudulent return; collection and enforcement.
- 47-1528. Deficiency; request for hearing.
- 47-1529. Acceleration of due date; distraint of taxpayer's property.
- 47-1530. Personal debt liability; priority; collection; "person" defined.
- 47-1531. Failure to file; fraudulent return; penalties and interest.
- 47-1532. Overpayment; credit or refund; time for filing; interest.
- 47-1533. Appeal from assessment or denial of claim for refund.
- 47-1534. Violations; penalties; prosecutions.
- 47-1535. Rules; powers of Mayor.
- 47-1536. Enforcement.

Subchapter I. General Provisions.

§ 47-1501. Assessment — Board of Assistant Assessors.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 24, 34 DCR 850.

Section references. — This section is referred to in §§ 47-1603 and 47-1501.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1502. Same — Full and true value to be listed.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 23, 34 DCR 850.

Section references. — This section is referred to in § 47-1603.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1503. Same — Forms for listing of property subject to tax.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 24, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1504. Warehouse property.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 21, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1521.

§§ 47-1505, 47-1506. "Resident" defined; returns and values to be made at certain dates.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 23, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1507. Applicable rates.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 24, 34 DCR 850.

Section references. — This section is referred to in § 47-451.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1508. Exemptions.

(a) ^{Chapter} The following personal property shall be exempt from the tax imposed by this act:

(1) The personal property of any corporation, and any community chest fund or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inure to the benefit of any private shareholder or individual, except that the organization shall have first obtained a certificate from the Mayor stating that it is entitled to the exemption.

(2) Works of art owned by a nonresident of the United States, who is not a citizen of the United States, so long as the works of art were lent without charge to the trustees of the National Gallery of Art solely for exhibition without charge to the general public.

(3) Any motor vehicle or trailer registered according to §§ 40-101, 40-102, and 40-104 to 40-106, except that special equipment mounted on a motor vehicle or trailer and not used primarily for the transportation of persons or property shall be taxed as tangible personal property as provided by law.

4 (A) The personal property of any gas, electric lighting, or telephone company regulated under Chapters 1 through 10 of Title 43, if the gas, electric lighting, or telephone company is subject to a gross receipts tax in force in the District for the period of time or for any portion of the time covered by any return required to be filed by subchapter II of Chapter 15 of this title.

5 (B) Beginning on October 1, 1994, the personal property of a telecommunication company, as defined in § 47-3901(5), irrespective of whether the property is used or consumed in furnishing a service, the charges from which are subject to the gross receipts tax imposed by § 47-2501(b), or Chapter 39 of this title. For the purposes of this sub-subparagraph, the phrase "personal property of a telecommunication company" shall not include office equipment or office furniture.

6 (C) The personal property of any cable television company regulated under Chapter 18 of Title 43, if the cable television company is subject to a gross receipts tax in force in the District for the period of time or for any portion of the time covered by any return required to be filed by the Chapter 15 of this title.

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(4) Nothing contained within this act, nor any prior act of Congress relating to the District of Columbia, shall be deemed to impose upon any person, firm, association, company, or corporation a tax based upon tangible personal property owned and stored by the person in a public warehouse in the District of Columbia for a period of time no longer than is necessary for the convenience or exigencies of reshipment and transportation to its destination outside the District of Columbia.

(b) The Mayor shall issue rules necessary to carry out the provisions of subsection (a)(3)(A) and (B) of this section in accordance with subchapter I of Chapter 15 of Title 1. (July 1, 1902, 32 Stat. 620, ch. 1352, § 6, par. 10; Apr. 28, 1904, 33 Stat. 564, ch. 1815; Mar. 4, 1913, 37 Stat. 1006, ch. 150, § 10; Sept. 1, 1950, 64 Stat. 576, ch. 836, § 3; May 18, 1954, 68 Stat. 112, ch. 218, §§ 605, 1001, 1002; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 6; 1973 Ed., § 47-1208; Feb. 28, 1987, D.C. Law 6-212, § 19(a), 34 DCR 850; Oct. 1, 1987, D.C. Law 7-25, § 3, 34 DCR 5068; May 23, 1989, D.C. Law 8-4, § 21, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 21, 36 DCR 4723; July 23, 1992, D.C. Law 9-134, § 110(b), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 110(c), 39 DCR 4895; July 14, 1995, D.C. Law 11-23, § 2, 42 DCR 2558; Sept. 26, 1995, D.C. Law 11-52, § 112, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to exemptions from real property taxes, see § 47-1001 et seq.

As to exemptions from income taxes, see § 47-1806.2.

Section references. — This section is referred to in §§ 47-459.1, 47-1603, 47-1604, 47-2501, and 47-2501.1.

Effect of amendments. — D.C. Law 11-52 rewrote (a)(3)(B).

Temporary amendments of section. — D.C. Law 11-23 rewrote (a)(3)(B).

Section 4(a) of D.C. Law 11-23 provided that § 2 of the act shall apply to taxes on personal property of a telecommunication company that become due on or after October 1, 1994.

Section 5(b) of D.C. Law 11-23 provided that the act shall expire on the 225th day of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Toll Telecommunication Emergency Amendment Act of 1995 (D.C. Act 11-42, April 17, 1995, 42 DCR 1936).

Section 4(a) of D.C. Act 11-42 provided for the application of the act.

For temporary amendment of section, see § 112 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 6-212. — See note to § 47-1521.

Legislative history of Law 7-25. — Law 7-25, the "Gross Receipt Tax Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-186, which was referred to the Com-

mittee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-4. — Law 8-4, the "Toll Telecommunications Service Tax Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-177. The Bill was adopted on first and second readings on February 28, 1989 and March 14, 1989, respectively. Signed by the Mayor on March 29, 1989, it was assigned Act No. 8-14 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-26. — Law 8-26 was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 11-23. — Law 11-23, the “Toll Telecommunication Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-138, which was retained by Council. The Bill was adopted on first and second readings on April 4, 1995 and May 2, 1995, respectively. Signed by the Mayor on June 16, 1995, it was assigned Act No. 11-51 and transmitted to both Houses of Congress for its review. D.C. Law 11-23 became effective on July 14, 1995.

Legislative history of Law 11-52. — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

References in text. — “This act,” referred to in the introductory language and in paragraph (4), is D.C. Law 6-212.

The “Toll Telecommunication Service Tax Act of 1989,” referred to in four places in (a)(3)(B), is D.C. Law 8-26, codified as §§ 47-1508, 47-2005, 47-2501, and 47-3901 to 47-3921.

Delegation of Authority Pursuant to D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987.” — See Mayor’s Order 94-120, May 16, 1994 (41 DCR 3240).

University is a “scientific institution” exempt from taxation. District of Columbia

v. Catholic Educ. Press, Inc., 199 F.2d 176 (D.C. Cir.), cert. denied, 344 U.S. 896, 73 S. Ct. 276, 97 L. Ed. 693 (1952).

As is nonprofit corporation preparing educational literature. — A nonprofit, nonstock corporation having a corporate purpose of preparing, publishing, and distributing educational, literary, scientific, and religious matter is exempt from taxation under this section as being a scientific institution. *District of Columbia v. Catholic Educ. Press, Inc.*, 199 F.2d 176 (D.C. Cir.), cert. denied, 344 U.S. 896, 73 S. Ct. 276, 97 L. Ed. 693 (1952).

As is National Wildlife Federation. — The National Wildlife Federation, being a scientific institution incorporated under District laws and not conducted for private gain, is exempt from the taxation of its personal property by the District. *District of Columbia v. National Wildlife Fed’n*, 214 F.2d 217 (D.C. Cir. 1954).

But not corporation organized for financial benefit. — A corporation which is organized and exists primarily, though indirectly, for financial and commercial benefit is conducted for “private gain,” within the meaning of this section. *District of Columbia v. Sport Fishing Inst.*, 252 F.2d 841 (D.C. Cir. 1958).

Restaurant property of religious shrine exempt from taxation. — The restaurant property of a religious shrine which is leased to a private operator, with the moneys derived by the shrine therefrom going to its further development, is exempt from taxation. *District of Columbia v. National Shrine of Immaculate Conception, Inc.*, 315 F.2d 42 (D.C. Cir. 1963).

Federal credit unions not exempt. — There is no language in this section which can be construed as exempting federally-chartered credit unions from taxation. *Georgetown Univ. Employees Fed. Credit Union v. District of Columbia*, App. D.C., 525 A.2d 1014 (1986).

Cited in *District of Columbia v. Samuel Meisel & Co.*, App. D.C., 316 A.2d 546 (1974); *National Medical Ass’n v. District of Columbia*, App. D.C., 611 A.2d 53 (1992).

§ 47-1509. Penalties.

If any real estate tax, or any installment thereof, is not paid within the time prescribed, there shall be added to such tax or installment a penalty of 10% of the unpaid amount plus interest on such unpaid amount at the rate of 1% per month or portion of a month until the tax or installment is paid. The amount of the unpaid tax, or installment thereof, plus the penalty or interest due, shall constitute a delinquent tax to be collected in the manner prescribed by law. If personal property taxes of any kind are not paid or filed within the time prescribed, penalties and interest shall be added to the tax in accordance with §§ 47-453 to 47-458. (July 3, 1926, 44 Stat. 833, ch. 759, § 5; Feb. 18, 1929, 45

Stat. 1227, ch. 259, § 5; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; May 18, 1954, 68 Stat. 112, ch. 218, § 606; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(48); 1973 Ed., § 47-1209; June 15, 1976, D.C. Law 1-70, title III, § 301, 23 DCR 537; Apr. 19, 1977, D.C. Law 1-124, title III, § 301(a), 23 DCR 8749; Apr. 18, 1978, D.C. Law 2-73, § 2, 24 DCR 7066; Feb. 28, 1987, D.C. Law 6-212, § 25(c), 34 DCR 850; June 24, 1988, D.C. Law 7-129, § 2, 35 DCR 4102; Sept. 21, 1988, D.C. Law 7-143, § 2, 35 DCR 5403; Feb. 5, 1994, D.C. Law 10-68, § 43(b), 40 DCR 6311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1601 and 47-1603.

Legislative history of Law 1-70. — Law 1-70, the "Revenue Act of 1976," was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-124. — Law 1-124, the "Revenue Act For Fiscal Year 1978," was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-73. — Law 2-73, the "Third Amendment to the Revenue Act for Fiscal Year 1978 and Other Purposes,"

was introduced in Council and assigned Bill No. 2-206, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings on November 22, 1977, December 6, 1977 and January 10, 1978, respectively. Signed by the Mayor on February 9, 1978, it was assigned Act No. 2-149 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-212. — See note to § 47-1521.

Legislative history of Law 7-129. — See note to § 47-811.

Legislative history of Law 7-143. — See note to § 47-811.

Legislative history of Law 10-68. — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

§§ 47-1510, 47-1511. Dealers in general merchandise and common carriers by vessels, ships, or boats; staff of Personal Tax Appraisers; appointment and duties of personnel.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 24, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1512. Rolling stock.

(a) The rolling stock of railroad companies, refrigerator-car companies, parlor-car companies, sleeping-car companies, tank-car companies, express companies, car-renting companies, and all other companies owning parlor, sleeping, dining, tank, freight, or any other cars which are operated or run over or upon the line or lines of any railroad or terminal company in the District of

Columbia, shall be deemed to be located in said District for purposes of taxation, whether or not the individual units are continuously in the District or are constantly changing, and such property shall be reported, assessed, and taxed within the time, and at the rates prescribed by law, for the reporting and taxation of other personal property in the District of Columbia.

(b) Such rolling stock as is primarily located in the District of Columbia shall be reported and taxed at its full and true value on the last day of the calendar year preceding the tax date.

(c) Such rolling stock as is not primarily located in the District of Columbia shall be reported and taxed in the manner following:

(1) Every railroad company operating rolling stock over or upon the line or lines of any railroad or terminal company in the District shall report to the Mayor of the District of Columbia the various classes of such rolling stock so operated by such company whether owned by it or any other railroad company; the number of miles traveled by each class of such rolling stock within the District during the calendar year next preceding the tax date; the total number of miles traveled by each class of such rolling stock on all lines over which such company operates during the calendar year next preceding the tax date; the total full and true value of each class of such rolling stock owned by such company on the last day of the calendar year next preceding the tax date; and such other facts and information as the Mayor may require. The taxable portion of the rolling stock of each such company shall be determined by applying the mileage traveled in the District by the various classes of such rolling stock operated in the District by such company to the total mileage traveled by the various classes of such rolling stock on all lines over which such company operates, and the tax shall be assessed on that portion of such rolling stock owned by such company on the last day of the calendar year next preceding the tax date. The mileage and value of the rolling stock owned by such company which is permanently located outside of the District of Columbia shall not be included in the computation of such assessment;

(2) Every parlor-car company and sleeping-car company owning parlor and sleeping cars (except those owned by railroad companies and described in paragraph (1) of this subsection) which are operated in the District over or upon the tracks of any railroad or terminal company, shall report to the Mayor of the District of Columbia the total number of miles traveled by all such cars, and also the miles traveled by such cars within the District, during the calendar year next preceding the tax date; the total full and true value of all of such cars so used as of the last day of the calendar year next preceding the tax date; and such other facts and information as the Mayor may require. The taxable portion of the value of the cars owned by any such company and used within the District shall be determined by applying to such value the ratio between the mileage traveled by such cars in the District and the total mileage traveled by such cars within and without the District;

(3)(A) Every car company, mercantile company, corporation or individual (other than railroad, parlor-car, and sleeping-car companies described in paragraphs (1) and (2) of this subsection) owning or leasing any stock cars, furniture cars, fruit cars, refrigerator cars, meat cars, oil cars, tank cars, or

other similar cars, which are run over or upon the line or lines of any railroad or terminal company in the District of Columbia, shall furnish to the Mayor of the District of Columbia, on forms prescribed by the Mayor, a true, full, and accurate statement, verified by the affidavit of the officer or person making the same, showing the aggregate number of miles made by their several cars over or upon the several lines of railroad within the District of Columbia during the calendar year next preceding the tax date; the average number of miles traveled per day within the District of Columbia by the cars covered by the statement in the ordinary course of business during the year; and such other pertinent facts and information as the Mayor may require.

(B) Every railroad company whose lines run through or into the District of Columbia shall annually furnish to the Mayor a statement showing the name and address of every car company, mercantile company, corporation, or individual (other than railroad, parlor-car, and sleeping-car companies described in paragraphs (1) and (2) of this subsection) whose cars made mileage over its tracks in the District of Columbia during the calendar year next preceding the tax date, and the total number of miles made within the District of Columbia by each during said period.

(C) It shall be the duty of the Mayor to ascertain from the best and most reliable information that can be obtained and from said statements the number of cars required to make the total mileage of each such car company, mercantile company, corporation, or individual within the District of Columbia during the period aforesaid, and to ascertain and fix the valuation upon each particular class of such cars, and the number so ascertained to be required to make the total mileage within the District of Columbia of the cars of each such car company, mercantile company, corporation, or individual within said period shall be assessed against the respective car companies, mercantile companies, corporations, or individuals. The valuation thus obtained shall be the full and true value and shall be the taxable portion of the cars owned by any such car company, mercantile company, corporation, or individual and used within the District of Columbia.

(d) All of the provisions of law relating to the filing of returns, assessment, payment, and collection of personal property taxes in the District of Columbia shall be applicable to the companies described in the foregoing subsections.

(e) Any individual, partnership, unincorporated association, or corporation aggrieved by any assessment of taxes made pursuant to the provisions of this section may appeal therefrom to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3306 to 47-3308.

(f) The provisions of this section shall be applicable to the taxable year beginning July 1, 1945, and each taxable year thereafter. (Dec. 15, 1945, 59 Stat. 610, ch. 579; July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(d); 1973 Ed., § 47-1215; Feb. 28, 1987, D.C. Law 6-212, § 17, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1536.

Legislative history of Law 6-212. — See note to § 47-1521.

*Subchapter II. Procedure.***§ 47-1521. Definitions.**

For the purposes of this act, the term:

- (1) "District" means the District of Columbia.
- (2) "Mayor" means the Mayor of the District of Columbia.
- (3) "Person" means an individual, firm, partnership, society, club, association, joint-stock company, corporation (domestic or foreign), estate, receiver, trustee, assignee, referee, and a fiduciary or other representative, whether or not appointed by a court, and any combination of individuals acting as a unit.
- (4) "Tangible personal property" means tangible goods and chattels used or held for use in any business, activity, or occupation whether or not operated for profit.
- (5) "Tax year" means the 12-month period beginning July 1st and ending the next June 30th.
- (6) "Trade or business" means engaging in, carrying on, and winding up the affairs of a trade, business, profession, vocation, calling, or commercial activity whether or not operated for profit, and includes performing the duties of a public office, the leasing or renting of real or personal property, whether or not the property is leased or rented directly or through an agent and whether or not services are performed in connection with the property, and any other activity carried on or engaged in for livelihood or profit.
- (7) "Use in a trade or business" means use of property in commencing, conducting, continuing, or liquidating a trade or business. (Feb. 28, 1987, D.C. Law 6-212, § 2, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — Law 6-212, the "Personal Property Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-100, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986,

respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-272 and transmitted to both Houses of Congress for its review.

References in text. — "This act," referred to in the introductory language, is D.C. Law 6-212.

§ 47-1522. Levy of annual tax on personal property.

(a) Each year the district shall levy a tax against every person on the tangible personal property owned or held in trust in that person's trade or business in the District. The rate of tax shall be \$3.40 for each \$100 of value of the taxable personal property.

(b) Construction equipment, vehicles, trailers, tools, and any other tangible personal property brought into the District on a temporary basis and used in a trade or business shall be taxed for the period that the property was physically located in the District.

(c) Persons owning leased personal property having a taxable situs in the District shall be subject to the tax and to the filing requirement of § 47-1524(b).

(d) Real property improvements that do not become an integral part of the realty shall be subject to the personal property tax imposed by subsection (a) of this section.

(e) Persons owning or holding in trust any tangible personal property located or having a taxable situs in the District on July 1st of the tax year that is used or available for use in a trade or business, whether or not operated for profit, shall file a return according to § 47-1524(b). (Feb. 28, 1987, D.C. Law 6-212, § 3, 34 DCR 850; July 23, 1992, D.C. Law 9-134, § 106, 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 106, 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-459.1 and 47-1531.

Legislative history of Law 6-212. — See note to § 47-1521.

Legislative history of Law 9-134. — See note to § 47-1508.

Legislative history of Law 9-145. — See note to § 47-1508.

§ 47-1523. Reporting requirement; valuation of property.

The full and true value and the current value of tangible personal property, including taxable leasehold improvements, having a taxable situs in the District shall be reported on the return. The full and true value shall be the original cost of the tangible personal property in an arms-length transaction, computed as of July 1st of the tax year. The current value of the tangible personal property shall be the full and true value less a reasonable allowance for straight line depreciation in accordance with rules promulgated by the Mayor. Tangible personal property items with a useful life of 1 year or less shall be reported at cost. No proration of value shall be permitted in anticipation of the disposition of an item of tangible personal property. In no event shall the current value reported be less than 25% of the original cost or exchange value of the tangible personal property. (Feb. 28, 1987, D.C. Law 6-212, § 4, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1524. Form of tax return; filing; extensions.

(a) The form of the personal property tax return shall be prescribed by the Mayor and the return shall conveniently document the information that the Mayor considers necessary for the proper administration of the District personal property tax system.

(b) The taxpayer shall not file the return before July 1st, but shall file the return before August 1st, of the tax year. The total amount of tax required to be shown on the return is due at the time the return is required to be filed.

(c) The Mayor may grant a reasonable extension of time for filing a return when good cause for the extension exists. Any request for an extension of time for filing a return shall be in writing, made before August 1st of the tax year, and accompanied by payment of the tax.

(d) The extension permitted under subsection (c) of this section shall not be granted for more than 3 months after July 31st of the tax year. (Feb. 28, 1987, D.C. Law 6-212, § 5, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1522 and 47-1531.

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1525. Filing returns; notice to party; records; examination.

(a) The Mayor may require a person, by a notice served upon the person, to file a return, render under oath statements, or keep records sufficient to show whether or not the person is liable for the personal property tax and the extent of the liability, if any. Any person required to file any applications, returns, or reports or to pay any tax imposed by this subchapter shall keep the records, render under oath the statements, and comply with District rules related to the personal property tax levied according to this subchapter.

(b) The Mayor, for the purpose of determining the correctness of any return, or for the purpose of making an estimate of the tax due, may:

(1) Examine any books, papers, records, or memoranda of any person bearing upon the matters required to be included in the return;

(2) Summon any person to appear and produce books, records, papers, or memoranda bearing upon the matters required to be included in the return; and

(3) Summon any person to give testimony or answer interrogatories under oath bearing upon the matters required to be included in the return. The summons may be served by any member of the Metropolitan Police Department and may be enforced as provided in § 1-338. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in the returns who refuses to permit the examination by the Mayor of any books, papers, records, or memoranda, or who obstructs or hinders the Mayor in the examination of any books, papers, records, or memoranda, shall upon conviction be fined not more than \$300. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia in the name of the District. (Feb. 28, 1987, D.C. Law 6-212, § 6, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1526. Assessment; collection; deadline; fraudulent returns; extensions.

(a) Except as provided in subsections (b) through (d) of this section, the personal property tax imposed by this subchapter shall be assessed within 3 years after the return is filed, and no proceeding in court without assessment

for the collection of the tax and no collection by distraint shall be initiated after the expiration of the 3-year period.

(b) If the taxpayer omits from his or her return tangible personal property properly includable that is in excess of 25% of the taxable personal property reported on the return, the tax may be assessed or a proceeding in court for the collection of the tax may be initiated at any time within 5 years after the return was filed.

(c) For purposes of subsections (a) and (b) of this section, a return filed before the last day prescribed by law for filing personal property tax returns shall be considered as having been filed on the last day.

(d) For fraudulent returns filed or for failure to make or file a return, the Mayor may assess the tax or begin a proceeding in court to collect the tax at any time.

(e) If before the expiration of the time prescribed in subsection (a) of this section, the Mayor and the taxpayer agree in writing to an assessment after that time, the agreement and any subsequent agreements in writing made before the expiration of the period previously agreed upon shall govern the deadline for making the assessment.

(f) If the assessment has been made within the applicable period of limitation, the Mayor may collect the tax by distraint pursuant to Chapter 17 of this title, or may bring a court action to collect the tax so long as the collection or the court action is commenced:

(1) Within 3 years after the assessment of the tax; or

(2) Before the end of a payment period agreed upon in writing by the Mayor and the taxpayer before the end of the 3-year period described in paragraph (1) of this subsection.

(g) The payment period agreed upon under subsection (e) of this section may be extended by subsequent agreements made in writing before the end of the previously agreed upon period. (Feb. 28, 1987, D.C. Law 6-212, § 7, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1527. Failure to file or fraudulent return; collection and enforcement.

(a) If a person fails to make or file a return required or files a fraudulent return, the Mayor shall make the return for the person based upon information that the Mayor may obtain through testimony or other sources.

(b) A return made according to subsection (a) of this section and signed by the Mayor shall be sufficient for all purposes related to the collection and enforcement of the personal property tax. (Feb. 28, 1987, D.C. Law 6-212, § 8, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1528. Deficiency; request for hearing.

(a) If a deficiency in tax is determined or redetermined by the Mayor, then the Mayor shall mail, by certified mail, a notice of the deficiency to the taxpayer.

(b) Unless, within 30 days after the notice of the deficiency is sent, the person against whom it is assessed requests, in writing, a hearing, or unless the Mayor decides to redetermine the deficiency, the Mayor's determination under subsection (a) of this section shall establish irrevocably the amount of the tax.

(c) If the person requests a hearing pursuant to subsection (b) of this section, the Mayor shall provide a hearing.

(d) As soon as practicable after the hearing or redetermination, the Mayor shall render a decision and notify the person against whom the tax is assessed of the Mayor's final decision on the matter. (Feb. 28, 1987, D.C. Law 6-212, § 9, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1529. Acceleration of due date; distraint of taxpayer's property.

(a) If the Mayor believes that the collection of the tax will be jeopardized by delay, the Mayor shall, whether or not the time otherwise prescribed by law for making return and paying the tax has expired, immediately assess the tax and any penalty and interest due on the tax.

(b) After the assessment in subsection (a) of this section, the amount of the assessment shall be immediately due for payment.

(c) If the person does not pay the amount of the assessment, then the Mayor may distraint the person's property according to §§ 47-1601, 47-1702, and 47-1706. (Feb. 28, 1987, D.C. Law 6-212, § 10, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1530. Personal debt liability; priority; collection; "person" defined.

(a) The tax, interest, and penalties due under this subchapter shall be a personal debt of the person liable for them from the time the tax, interest, and penalties are due and payable.

(b) These personal debts shall have the same priority as other District taxes.

(c) The tax, interest, and penalties due shall be collected in the manner provided in §§ 47-1601, 47-1702, and 47-1706.

(d) For purposes of this section, the term "person" includes any officer or employee corporation, or any member or employee of a partnership or association who as an officer, employee, or member is under a duty to perform

the act with respect to which a violation occurs. (Feb. 28, 1987, D.C. Law 6-212, § 11, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1531. Failure to file; fraudulent return; penalties and interest.

For failure to file a return within the periods permitted in §§ 47-1522(e) and 47-1524, for failure to pay the tax within the time required, or for filing a fraudulent return, penalties and interest shall be added to the tax in accordance with §§ 47-453 through 47-458. (Feb. 28, 1987, D.C. Law 6-212, § 12, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

Payment of interest accrued a prerequisite to appeal. — The payment by a taxpayer of the total amount of deficiency shown on a notice of assessment, which does not include

the interest which accrued through the date of payment, is not enough to satisfy the jurisdictional requirement of § 47-3303. *First Interstate Credit Alliance, Inc. v. District of Columbia*, App. D.C., 604 A.2d 10 (1992).

§ 47-1532. Overpayment; credit or refund; time for filing; interest.

(a) When there has been an overpayment of the tax, the amount of the overpayment may be credited against any other personal property tax liabilities of the person who made the overpayment.

(b) If the overpayment exceeds these liabilities, the Mayor shall refund the difference to the person.

(c) The Mayor shall not permit any credit or refund after 3 years from the time the tax was paid unless, before the 3-year period ends, the taxpayer files a claim for the overpayment.

(d) Every claim for credit or refund shall be in writing, under oath, with a statement of the specific grounds for the claim, and delivered to the Mayor.

(e) If the Mayor or any court finds that any part of any tax assessed as a deficiency was an overpayment, the District shall pay interest on the overpayment from the date of the overpayment until the date of the refund, and any interest on the overpayment that was paid by the taxpayer shall be refunded.

(f) The interest payable by the District under subsection (e) of this section shall be at the rate provided for in § 47-3310(c). (Feb. 28, 1987, D.C. Law 6-212, § 13, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1533. Appeal from assessment or denial of claim for refund.

Any person aggrieved by any assessment of a deficiency in tax and any person aggrieved by the denial of a claim for refund may, within 6 months from the date of the assessment of the deficiency or from the date of the denial of a claim for refund, as the case may be, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308. (Feb. 28, 1987, D.C. Law 6-212, § 14, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1534. Violations; penalties; prosecutions.

(a) Any person required to pay the personal property tax, to make a return, to keep any records, or to provide any information for the purposes of this subchapter who willfully refuses to perform these acts, who makes a false or fraudulent return or willfully attempts to defeat or evade the personal property tax, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction:

(1) Shall be fined not more than \$5,000, imprisoned not more than 1 year, or both; and

(2) Shall also be liable for the costs of prosecuting the misdemeanor.

(b) Any person required to pay the personal property tax, to make a return, to keep any records, or to provide any information for the purposes of this subchapter who fails or neglects to pay the tax, to make the return, to keep the records, or to provide the information, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$3,000, or imprisoned for not more than 6 months, or both.

(c) For purposes of this section, the term "person" includes any officer or employee of a corporation or any member or employee of a partnership or association, who as an officer, employee, or member is under a duty to perform the act with respect to which a violation occurs.

(d) Prosecutions under this section shall be brought on information in the Superior Court of the District of Columbia by the Corporation Counsel in the name of the District. (Feb. 28, 1987, D.C. Law 6-212, § 15, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

§ 47-1535. Rules; powers of Mayor.

(a) The Mayor shall issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 15 of Title 1.

(b) In addition to the other powers granted the Mayor under this subchapter, the Mayor may:

- (1) For reasonable cause, waive penalties and interest in whole or in part;
- (2) Compromise disputed claims in regard to the personal property tax whenever any doubt arises as to the liability or collectability of the tax; and
- (3) Request information from the Internal Revenue Service of the Treasury Department of the United States regarding any person for the purpose of assessing the personal property tax. (Feb. 28, 1987, D.C. Law 6-212, § 16, 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

6-212. — See Mayor's Order 87-222, September 28, 1987.

Delegation of authority pursuant to Law

§ 47-1536. Enforcement.

(a) Rights, liabilities, and other interests arising under An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, Chapter 17 of this title, and § 47-1512, before July 1, 1987, may be litigated as though the Personal Property Tax Amendment Act of 1986 had not been enacted.

(b) The repeal by this act of any provision of law shall not affect any act done or any right accrued or accruing under the provision of law before February 28, 1987, or any suit or proceeding had or commenced before February 28, 1987, but all rights and liabilities under prior law shall continue and may be enforced in the same manner and to the same extent as if the repeal had not been made.

(c) All offenses committed, and all penalties incurred prior to February 28, 1987, under any provisions of law repealed, may be prosecuted and punished in the same manner and with the same effect as if this act had not been enacted. (Feb. 28, 1987, D.C. Law 6-212, § 25, 34 DCR 850; Feb. 5, 1994, D.C. Law 10-68, § 43(a), 40 DCR 6311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1521.

Legislative history of Law 10-68. — See note to § 47-1509.

References in text. — "An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes," referred to in subsection (a), is 32 Stat. 617.

The "Personal Property Tax Amendment Act of 1986," referred to in subsection (a), is D.C. Law 6-212, which is codified at §§ 47-811, 47-1508, 47-1509, 47-1512, 47-1521 through 47-1536, 47-1601, 47-1602, 47-1702, 47-1703, 47-1705 through 47-1707, and 47-1712.

"This act," referred to in (b) and (c), is also a reference to D.C. Law 6-212.

Editor's notes. — Section 25(c) of D.C. Law 6-212 included the following exception in (c): "except that [former] § 47-1509(a) is amended as follows:

(1) By striking the phrase 'if any such tax' and inserting in its place the phrase 'if any real estate tax'; and

(2) By adding a new sentence to the end to read as follows: 'If personal property taxes of any kind are not paid or filed within the time prescribed, penalties and interest shall be added to the tax in accordance with §§ 47-453 through 47-458'."

CHAPTER 16. ENFORCEMENT OF PERSONAL PROPERTY TAXES BY
DISTRAINT OR LEVY.

Sec.	Sec.
47-1601. Distraint of goods and chattels authorized; levy and sale of land; advertisement of personal property sale; public auction; report and audit; disposition of surplus.	47-1603. Violations of certain provisions.
	47-1604. Available remedies for collection of taxes and assessments.
47-1602. Storage of distrained property; manner of sale.	47-1605. Sale of real estate under court decree.

§ 47-1601. Distraint of goods and chattels authorized; levy and sale of land; advertisement of personal property sale; public auction; report and audit; disposition of surplus.

When the taxes on personal property due and payable in each year shall not be paid as provided in § 47-1509, then and in that event the Mayor of the District of Columbia, or his Deputy, may distraint sufficient goods and chattels found within the District of Columbia and belonging to the person, firm, association, corporation, company, administrator, executor, guardian, or trustee charged with such tax to pay the taxes remaining due, under the provisions of this law, from such person, firm, association, corporation, company, administrator, executor, guardian, or trustee, together with the penalty thereon and the costs that may accrue; and for want of such goods and chattels the Mayor may levy upon and sell at auction the estate and interest of such person, firm, association, corporation, company, administrator, executor, guardian, or trustee in any parcel of land in said District; and in the case of the levy on any estate or interest in land the proceedings subsequent to sale thereof shall be the same as provided by law in the case of sales for arrears of taxes against real estate; and in the case of distraint of personal property or the levy upon real estate as aforesaid the Mayor shall immediately proceed to advertise the same by public notice to be posted in the office of the Mayor and by advertisement, 3 times within 1 week, in 1 or more of the daily newspapers published in said District, stating the time when and the place where such property shall be sold, the last publication to be at least 6 days before the date of sale, and if the said taxes and penalty thereon, and the costs and expenses which shall have accrued thereon, shall not be paid before the day fixed for such sale, which shall not be less than 10 days after said levy or taking of said property, the Mayor shall proceed to sell at public auction, such property, or so much thereof as may be needed to pay such taxes, penalty, and accrued costs and expenses of such distraint and sale. The Mayor shall report in detail in writing every distraint and sale of personal property, and his accounts in respect to every such distraint or sale shall forthwith be submitted to the Auditor of the District of Columbia and be audited by him. Any surplus resulting from such sale over and above such taxes, costs, and expenses shall be paid into the Treasury, and upon being claimed by the owner or owners of the goods and chattels aforesaid shall be paid to him or them upon the

certificate of the Mayor stating in full the amount of such excess. (July 1, 1902, 32 Stat. 621, ch. 1352, § 6, par. 12(a); 1973 Ed., § 47-1301; Feb. 28, 1987, D.C. Law 6-212, § 19(b), 34 DCR 850; Feb. 5, 1994, D.C. Law 10-68, § 44, 40 DCR 6311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to taxation of family dwellings, see § 47-1101 et seq.

As to application of section to collection of income taxes, see § 47-1812.9.

Section references. — This section is referred to in §§ 47-1529, 47-1530, 47-1603, 47-1604, 47-3913, and 47-3914.

Legislative history of Law 6-212. — Law 6-212, the "Personal Property Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-100, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-272 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-68. — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of

Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Any goods and chattels of the person charged with taxes may be distrained. *Tumulty v. District of Columbia*, 102 F.2d 254 (D.C. Cir. 1939).

But there is no provision for a lien on personal property. *Tumulty v. District of Columbia*, 102 F.2d 254 (D.C. Cir. 1939).

Leasehold interests. — The leasehold interest of a tenant is considered a "good" or "chattel" subject to seizure and sale under the Distraint Act. *District of Columbia v. Carr*, App. D.C., 607 A.2d 513 (1992).

Procedure for acquiring personal property tax lien. — The District's lien for personal property taxes does not merely arise from the fact of a delinquency; the lien must be "acquired" either by the filing of a certificate of delinquency with the Recorder of Deeds or by the more immediate means of distraint. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

Cited in *District of Columbia v. American Sec. & Trust Co.*, 202 F.2d 21 (D.C. Cir. 1953); *Carr v. District of Columbia*, 118 WLR 1937 (Super. Ct. 1990).

§ 47-1602. Storage of distrained property; manner of sale.

When the Mayor distrains goods and chattel to enforce the payment of the tax, the goods and chattel seized shall be kept in a safe and convenient place until the sale of the property. The sale shall be at a public auction, at a place chosen by the Mayor. If the Mayor determines that the property seized may perish, may become greatly reduced in value while kept, or cannot be kept without great expense, the Mayor shall appraise the value of the property. If the Mayor can readily find the owner, then the Mayor shall notify the owner of the appraised value of the property. The Mayor shall return the property to the owner if, within the period stated in the notice, the owner either pays the Mayor the appraised value of the property or gives the Mayor a bond to pay the appraised amount at a time that the Mayor considers appropriate under the circumstances. (July 1, 1902, 32 Stat. 621, ch. 1352, § 6, par. 12(b); Apr. 28, 1904, 33 Stat. 564, ch. 1815; 1973 Ed., § 47-1302; Feb. 28, 1987, D.C. Law 6-212, § 19(b), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

Legislative history of Law 6-212. — See note to § 47-1601.

Claim to lessee's interest. — When the

government moves against a tenant pursuant to a lease, it cannot acquire a greater interest in the property than the tenant had. *Carr v. District of Columbia*, 118 WLR 1937 (Super. Ct. 1990).

Seizure of a lessor's property by the District of Columbia for storage and auction of lessee/tax debtor's seized property was an unlawful taking in violation of the Fifth Amendment where the District appropriated the property to itself for uses inconsistent with lease provisions governing occupancy of the space. *Carr v. District of Columbia*, 118 WLR 1937 (Super. Ct. 1990).

Manner of sale. — Where District entered the leased premises pursuant to its legitimate authority to seize the tenant's goods and chattels, including temporary seizure of the leasehold interest by exercising its legitimate au-

thority, the District did not invade the private property of the landlord, even assuming the District did commit minor infractions of the lease agreement between the landlord and tenant. *District of Columbia v. Carr*, App. D.C., 607 A.2d 513 (1992).

Using the tenant's leasehold rights and interests to store and auction the tenant's goods was not an unreasonable way for the District to limit costs to both the public and the tenant, while providing the tenant with "reasonable opportunity" to meet its tax burden before an auction. *District of Columbia v. Carr*, App. D.C., 607 A.2d 513 (1992).

§ 47-1603. Violations of certain provisions.

Any person or persons violating any of the provisions of §§ 47-1501 to 47-1511, 47-1601 to 47-1605, and 47-2501 to 47-2506 shall be liable to a penalty of not exceeding \$500 for each offense, said penalty to be imposed, upon conviction in the Superior Court of the District of Columbia, as other fines and penalties are imposed, and said Court is hereby invested with jurisdiction thereof; and in default of the payment of said penalty the person or persons so convicted shall be imprisoned, in the discretion of the Court, not exceeding 6 months. (July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 18; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1303; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1603 and 47-1604.

§ 47-1604. Available remedies for collection of taxes and assessments.

(a) The remedies provided in §§ 47-1501 to 47-1511, 47-1601 to 47-1605, and 47-2501 to 47-2506 for the collection of taxes on tangible personal property, shall be available also for the collection of taxes on intangible property.

(b) In addition to the statutory remedies, all common-law and all equitable remedies shall also be available in the Superior Court of the District of Columbia, either separately or concurrently with statutory remedies, as may be deemed advisable, for the collection of all taxes and special assessments of any kind whatsoever. (Feb. 18, 1929, 45 Stat. 1226, ch. 259, § 1; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, § 161(h)(1); 1973 Ed., § 47-1304; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1603.

Claim to lessee's interest. — When the government moves against a tenant pursuant to a lease, it cannot acquire a greater interest in the property than the tenant had. *Carr v. Dis-*

trict of Columbia, 118 WLR 1937 (Super. Ct. 1990).

Seizure of a lessor's property by the District of Columbia for storage and auction of lessee/tax debtor's seized property was an unlawful taking in violation of the Fifth Amendment

where the District appropriated the property to itself for uses inconsistent with lease provisions governing occupancy of the space. Carr v. District of Columbia, 118 WLR 1937 (Super. Ct. 1990).

§ 47-1605. Sale of real estate under court decree.

Where real estate is levied upon for the nonpayment of personal taxes of any kind, and the best price offered at an auction sale is not sufficient to pay taxes, interest, and penalties, said real estate may be sold under decree of the Superior Court of the District of Columbia as provided by law. (Feb. 18, 1929, 45 Stat. 1226, ch. 259, § 2; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, § 161(h)(2); 1973 Ed., § 47-1305; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

CHAPTER 17. ENFORCEMENT OF PERSONAL PROPERTY TAXES BY ACQUISITION OF LIEN.

Sec.	Sec.
47-1701. Examinations of books and persons; failure to obey summons or produce books; prosecutions.	47-1705. Same — Persons required to exhibit books.
47-1702. Distraint of personal property — Authority to levy and sell; report and audit; disposition of surplus.	47-1706. Creation and enforcement of lien.
47-1703. Same — Persons required to surrender property or rights.	47-1707. Recoveries for wrongful distraints.
47-1704. Same — Liability for failure or refusal to surrender.	47-1708. [Repealed].
	47-1709. Remedies for collection.
	47-1710. [Repealed].
	47-1711. Definitions.
	47-1712. Secrecy of returns.

§ 47-1701. Examinations of books and persons; failure to obey summons or produce books; prosecutions.

The Mayor of the District of Columbia or any person designated by him for the purpose of ascertaining the correctness of any return of personal property, tangible or intangible, for taxation or for the purpose of making a return where none has been made is authorized to examine any books, papers, records, or memoranda of any person bearing upon the matters required to be included in the return and may summon any person to appear before him and produce books, records, papers, or memoranda bearing upon the matters required to be included in the return and to give testimony or answer interrogatories under oath respecting the same, and the Mayor shall have power to administer oaths to such person or persons. Such summons may be served by any member of the Metropolitan Police Department. If any person, having been personally summoned, shall neglect or refuse to obey the summons issued as herein provided, then in that event the Mayor may report that fact to the Superior Court of the District of Columbia, or 1 of the judges thereof, and said Court or any judge thereof hereby is empowered to compel obedience to said summons to the same extent as witness may be compelled to obey the subpoenas of that Court. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in such returns, who shall refuse to permit the examination by the Mayor or any person designated by him of any such books, papers, records, or memoranda, or who shall obstruct or hinder the Mayor or any person designated by him in the examination of any books, papers, records, or memoranda, shall upon conviction thereof be fined not more than \$300. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia in the name of the District of Columbia. (Aug. 17, 1937, 50 Stat. 673, ch. 690, title I, § 1; May 16, 1938, 52 Stat. 356, ch. 223, § 1; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(a), (b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, 573, Pub. L. 91-358, title I, § 155(a), (c)(49)(A); 1973 Ed., § 47-1401; Feb. 28, 1987, D.C. Law 6-212,

§ 18(a), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2507.

Cross references. — As to enforcement of personal property taxes by distraint or levy, see § 47-1601 et seq.

As to applicability of this section to collection of income taxes, see § 47-1812.9.

Legislative history of Law 6-212. — Law 6-212, the "Personal Property Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-100, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-272 and transmitted to both Houses of Congress for its review.

Chapter constitutional. — This chapter is not invalid as a violation of the Commerce Clause or the Fourteenth Amendment. *Neild v. District of Columbia*, 110 F.2d 246 (D.C. Cir. 1940).

Congress empowered to tax District. — The delegation to Congress of the power to exercise exclusive legislation in all cases over the District includes the power to tax. *Neild v. District of Columbia*, 110 F.2d 246 (D.C. Cir. 1940).

And provided for lien for delinquent taxes. — Congress provided a method for the obtaining of a lien against a taxpayer delinquent in the payment of personal property taxes. *Tumulty v. District of Columbia*, 102 F.2d 254 (D.C. Cir. 1939).

§ 47-1702. Distraint of personal property — Authority to levy and sell; report and audit; disposition of surplus.

If any person liable to pay any personal property tax to the District of Columbia neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Mayor for the District of Columbia, or any person designated by him, to collect the said taxes, with interest and penalties thereon, by distraint and sale in the manner hereinafter provided, of the goods, chattels, or effects, including stocks, securities, bank accounts, evidences of debt, and credits of the person delinquent as aforesaid. In case of such neglect or refusal of the person delinquent as aforesaid the Mayor, or the person designated by him, may levy upon all such property and rights to such property belonging to such person for the payment of the sum due with interest and penalties thereon and the costs that may accrue and the Mayor shall immediately proceed to advertise the same by public notice to be posted in the office of the Mayor and by advertisement 3 times in 1 week in 1 or more daily newspapers in said District, stating the time when and the place where such property shall be sold, the last publication to be at least 6 days before the date of sale and if the said taxes, with interest and penalties thereon, and the costs and expenses which shall have accrued thereon, shall not be paid before the date fixed for such sale, which shall not be less than 10 days after said levy or taking of said property, the Mayor shall proceed to sell at public auction such property or interest therein or so much thereof as may be needed to pay such taxes, interest, penalties, and accrued costs and expenses of such distraint and sale. The Mayor shall report in detail in writing every distraint and sale of personal property, and his accounts in respect to every such distraint or sale shall forthwith be submitted to the Auditor of the District of Columbia and shall be audited by him. Any surplus resulting from such sale over and above such taxes, interest, penalties, costs, and expenses shall be paid into the

Treasury of the United States to the credit of the District of Columbia, and upon being claimed by the owner or owners of the property aforesaid shall be paid to him or them by the accounting officers of said District upon the certificate of the Mayor stating in full the amount of such excess. (Aug. 17, 1937, 50 Stat. 673, ch. 690, title I, § 2; 1973 Ed., § 47-1402; Feb. 28, 1987, D.C. Law 6-212, § 18(b), 34 DCR 850; Apr. 30, 1988, D.C. Law 7-104, § 41(a), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to time for paying taxes, see § 47-1509.

As to enforcement of personal property taxes by distraint or levy, see § 47-1601 et seq.

Section references. — This section is referred to in §§ 47-1529, 47-1530, 47-3913 and 47-3914.

Legislative history of Law 6-212. — See note to § 47-1701.

Legislative history of Law 7-104. — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Principle by which order of priority for liens determined. — A lien for personal property taxes is entitled only to the priority given by the principle of "first in time, first in right," for the Code contains no provision making liens for personal property taxes superior to preexisting perfected security interests. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

Procedure for acquiring of personal property tax lien. — The District's lien for personal property taxes does not merely arise from the fact of a delinquency; the lien must be "acquired" either by the filing of a certificate of delinquency with the Recorder of Deeds or by the more immediate means of distraint. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

Claim to lessee's interest. — When the government moves against a tenant pursuant to a lease, it cannot acquire a greater interest in the property than the tenant had. *Carr v. District of Columbia*, 118 WLR 1937 (Super. Ct. 1990).

Seizure of a lessor's property by the District of Columbia for storage and auction of lessee/tax debtor's seized property was an unlawful taking in violation of the Fifth Amendment where the District appropriated the property to itself for uses inconsistent with lease provisions governing occupancy of the space. *Carr v. District of Columbia*, 118 WLR 1937 (Super. Ct. 1990).

Manner of sale. — Where District entered the leased premises pursuant to its legitimate authority to seize the tenant's goods and chattels, including temporary seizure of the leasehold interest by exercising its legitimate authority, the District did not invade the private property of the landlord, even assuming the District did commit minor infractions of the lease agreement between the landlord and tenant. *District of Columbia v. Carr*, App. D.C., 607 A.2d 513 (1992).

Using the tenant's leasehold rights and interests to store and auction the tenant's goods was not an unreasonable way for the District to limit costs to both the public and the tenant, while providing the tenant with "reasonable opportunity" to meet its tax burden before an auction. *District of Columbia v. Carr*, App. D.C., 607 A.2d 513 (1992).

Cited in *Pearson v. Laughlin*, 190 F.2d 658 (D.C. Cir. 1951).

§ 47-1703. Same — Persons required to surrender property or rights.

Any person in possession of property or rights to property subject to distraint upon which a levy has been made shall, upon demand by the Mayor, or the person designated by him, surrender such property or rights to the Mayor or the person designated by him, unless such property or right is at the time of such demand subject to an attachment or execution under any judicial process. (Aug. 17, 1937, 50 Stat. 674, ch. 690, title I, § 3; 1973 Ed., § 47-1403; Feb. 28, 1987, D.C. Law 6-212, § 18(c), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2507.

Legislative history of Law 6-212. — See note to § 47-1701.

§ 47-1704. Same — Liability for failure or refusal to surrender.

Any person who fails or refuses so to surrender any of such property or rights shall be liable in his own person and estate to the District of Columbia in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes including interest and penalties for the collection of which such levy has been made, together with costs and interest thereon, from the date of such levy. (Aug. 17, 1937, 50 Stat. 674, ch. 690, title I, § 4; 1973 Ed., § 47-1404; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2507.

§ 47-1705. Same — Persons required to exhibit books.

All persons and officers of companies and corporations are required, on demand of the Mayor, or the person designated by him, about to distrain or having distrained on any property or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint or the property or rights of property liable to distraint for the tax due. A violation of this section shall be punished by a fine of not exceeding \$500 or by imprisonment not exceeding 30 days, or both, in a prosecution filed in the Superior Court of the District of Columbia by the Corporation Counsel of the District in the name of the District of Columbia. (Aug. 17, 1937, 50 Stat. 674, ch. 690, title I, § 5; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1405; Feb. 28, 1987, D.C. Law 6-212, § 18(d), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1701.

§ 47-1706. Creation and enforcement of lien.

In case of the neglect or refusal of any person to pay a personal property tax within 10 days after notice and demand, the Mayor, or the person designated by him, may file a certificate of such delinquent personal tax with the Recorder of Deeds of the District of Columbia, which certificate from the date of its filing shall have the force and effect, as against the delinquent person named in such certificate, of the lien created by a judgment granted by the Superior Court of the District of Columbia, which lien shall remain in force and effect until the taxes set forth in said certificate, with interest and penalties thereon, shall be paid and said lien may be enforced by the Superior Court of the District of Columbia. (Aug. 17, 1937, 50 Stat. 674, ch. 690, title I, § 6; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 5,

1966, 80 Stat. 266, Pub. L. 89-493, § 18; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(49)(B); 1973 Ed., § 47-1406; Feb. 28, 1987, D.C. Law 6-212, § 18(e), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to time for paying taxes, see § 47-1509.

Section references. — This section is referred to in §§ 47-1529, 47-1530, 47-3913, and 47-3914.

Legislative history of Law 6-212. — See note to § 47-1701.

Lien for income taxes has priority over other claims, even though the District has not filed a certificate of delinquent taxes. *District of Columbia v. Hechinger Properties Co.*, App. D.C., 197 A.2d 157 (1964).

Procedure for acquiring of personal property tax lien. — The District's lien for personal property taxes does not merely arise from the fact of a delinquency; the lien must be "acquired" either by the filing of a certificate of delinquency with the Recorder of Deeds or by the more immediate means of distraint. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

§ 47-1707. Recoveries for wrongful distraints.

When a recovery is had in any suit or proceeding against the Mayor, or any person designated by him, under this Act for a wrongful distraint or any other act done by him or for the recovery of any money exacted by or paid to him and by him paid into the District Treasury in the performance of his official duty and the Court certifies that there was probable cause for the act done by the Mayor or the person designated by him or that he acted under the directions of the Mayor of the District of Columbia, no execution shall issue thereon, but the amount so recovered shall, upon final judgment, be paid by the District of Columbia in the same manner as judgments against the said District are paid. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title I, § 7; 1973 Ed., § 47-1407; Feb. 28, 1987, D.C. Law 6-212, § 18(f), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1701.

References in text. — "This Act," referred to in this section, means 50 Stat. 690, ch. 690, approved August 17, 1937.

Collector is not subject to civil liability for any injury resulting from an alleged misinterpretation of his duties. *Goldstein v. Pearson*, App. D.C., 121 A.2d 260 (1956).

§ 47-1708. Time for assessments and collections.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 22, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1701.

§ 47-1709. Remedies for collection.

The remedies provided by this chapter for the collection of personal property taxes are in addition to any other remedies available for the collection of said taxes. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title I, § 9; 1973 Ed., § 47-1409; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1710. Failure or refusal to file required return or schedule.

Repealed. Feb. 28, 1987, D.C. Law 6-212, § 22, 34 DCR 850.

Legislative history of Law 6-212. — See note to § 47-1701.

§ 47-1711. Definitions.

As used in this chapter:

(1) The term “person” includes any individual, firm, copartnership, joint adventure, association, corporation (domestic or foreign), trust, trustee, estate, or receiver.

(2) The term “return” means any return required to be filed by this title. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title I, § 11; May 16, 1938, 52 Stat. 357, ch. 223, § 1(c); 1973 Ed., § 47-1411; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Trustee in bankruptcy is a “person” alty in his hands. *Brown v. Collector of Taxes*, bound to make and deliver a return on person- 247 F.2d 786 (D.C. Cir. 1957).

§ 47-1712. Secrecy of returns.

(a) Except as provided in subsections (b), (c), (d)(2), and (e) of this section, and except as to any official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer, employee, or contractor or any former officer, employee, or contractor of the District to divulge or make known in any manner the amount of reported value or any particulars relating to value or the computation of value set forth or disclosed in any return required to be filed under this act. Neither the original nor a copy of any return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of the litigation, whether or not the request is contained in an order of the court. Nothing contained in this section shall be construed to prevent the furnishing to the taxpayer of a copy of his or her return upon the payment of a fee as provided by the Mayor. The provisions of this subsection shall also be applicable to any federal, state, or local tax returns or copies of these returns and to any federal, state, or local tax information either submitted by the taxpayer or otherwise obtained.

(b) Except as provided in subsection (c) of this section, the District may provide the information reported in a return to either the Mayor or the United States when either the District or the United States is a party to litigation where either of the 2 governments is interested in the result of the litigation, and where the information reported in the return would be relevant to the liabilities of the parties in the litigation.

(c) The District may provide the information reported in a return to either the federal government or a state government, so long as the United States, with regards to disclosures to the federal government, and the state government, with regards to disclosure to the state government, grant substantially

similar privileges to the District for its administration of personal property taxes.

(d) The District may publish the following information in a manner so as to prevent the identification of particular reports and items in reports:

- (1) Statistics about the personal property tax system;
- (2) A list of taxpayers who are delinquent in their personal property taxes; and
- (3) Other information that may help the Mayor collect taxes.

(e) The District may disclose information reported on returns to a contractor obligated by the District to store documents or information related to personal property taxes or obligated by the District to provide other services to the personal property tax system, to the extent the disclosure relates to the obligations of the contractor.

(f) Violations of this section shall be a misdemeanor. The violation shall be punishable by a fine of not more than \$1,000, imprisonment for not more than 1 year, or both. Prosecutions under this section shall be brought in the Superior Court of the District of Columbia by the Corporation Counsel in the name of the District. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title I, § 12; May 16, 1938, 52 Stat. 357, ch. 223, § 1(c); 1973 Ed., § 47-1412; Feb. 28, 1987, D.C. Law 6-212, § 18(g), 34 DCR 850; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-212. — See note to § 47-1701.

at the end of the first sentence of subsection (a) is 50 Stat. 673.

References in text. — “This act,” referred to

CHAPTER 18. INCOME AND FRANCHISE TAXES.

Subchapter I. Repeal of Prior Income Tax Law and Applicability of Subchapter; General Definitions.

- Sec.
- 47-1801.1. Repeal of the District of Columbia Income Tax Act of 1939 for certain purposes.
 - 47-1801.1a. Effect of repeal or amendment.
 - 47-1801.2. Applicability of provisions — Taxable years.
 - 47-1801.3. Same — Returns and payments.
 - 47-1801.4. General definitions.
 - 47-1801.5. Effect of repeal or amendment.

Subchapter II. Exempt Organizations.

- 47-1802.1. Exempt organizations — In general.
- 47-1802.2. Same — Regulations.
- 47-1802.3. Same — Applicability of provisions.

Subchapter III. Net Income, Gross Income and Exclusions Therefrom, and Deductions.

- 47-1803.1. "Net income" defined.
- 47-1803.2. Gross income — Items included and excluded; "adjusted gross income" defined.
- 47-1803.3. Same — Deductions.

Subchapter IV. Accounting Periods, Installment Sales, and Inventories.

- 47-1804.1. Accounting periods — Computation of income.
- 47-1804.2. Same — Period in which items of gross income included.
- 47-1804.3. Same — Period for which deductions and credits taken.
- 47-1804.4. Income from installment sales.
- 47-1804.5. Inventories.
- 47-1804.6. Authority to reject returns.
- 47-1804.7. Amount.

Subchapter V. Returns.

- 47-1805.1. Returns — Forms.
- 47-1805.2. Same — Persons required to file.
- 47-1805.3. Same — Filing.
- 47-1805.4. Same — Divulgence of information.

Subchapter VI. Tax on Residents and Nonresidents.

- 47-1806.1. Tax on residents and nonresidents — "Taxable income" defined.
- 47-1806.2. Same — Personal exemptions.
- 47-1806.3. Same — Imposition and rates.
- 47-1806.4. Same — Credits — In general.
- 47-1806.5. [Repealed].
- 47-1806.6. Same — Same — Property taxes.

Subchapter VII. Tax on Corporations and Financial Institutions.

- Sec.
- 47-1807.1. Tax on corporations — Definitions.
 - 47-1807.2. Same — Levy and rates.
 - 47-1807.2a. Same — Transfer of surtax to Convention Center Authority.
 - 47-1807.3. [Repealed].
 - 47-1807.4. Tax credit to qualified businesses for wages to qualified employees; exceptions.
 - 47-1807.5. Reduction of tax credit for insurance premiums; exceptions.
 - 47-1807.6. Tax credit for income that includes rent charged to licensed, nonprofit child development center; exceptions.

Subchapter VIII. Tax on Unincorporated Businesses.

- 47-1808.1. Tax on unincorporated businesses — Definition.
- 47-1808.2. Same — Definitions.
- 47-1808.3. Same — Levy and rates.
- 47-1808.3a. Same — Transfer of surtax to Convention Center Authority.
- 47-1808.4. Same — Exemption.
- 47-1808.5. Same — Persons liable for payment.
- 47-1808.6. Partnerships.
- 47-1808.7. Tax credit.

Subchapter IX. Tax on Estates and Trusts.

- 47-1809.1. Tax on estates and trusts — Residency definitions.
- 47-1809.2. Same — Effect of residence or situs of fiduciary.
- 47-1809.3. Same — Imposition.
- 47-1809.4. Same — Computation.
- 47-1809.5. Same — Net income.
- 47-1809.6. Same — Beneficiary taxable year.
- 47-1809.7. Same — Revocable trusts.
- 47-1809.8. Same — Income for benefit of grantor.
- 47-1809.9. Same — "In discretion of grantor" defined.
- 47-1809.10. Same — Employees' trusts.

Subchapter X. Purpose of Chapter and Allocation and Apportionment.

- 47-1810.1. Purpose of chapter.
- 47-1810.2. Allocation and apportionment of District and non-District income.
- 47-1810.3. Distribution, apportionment, or allocation of income or deductions between or among organizations, trades, or businesses.

Subchapter XI. Bases.

Sec.

- 47-1811.1. Disposition of property — Basis for determination of gain or loss.
- 47-1811.2. Same — Determination of gain or loss.
- 47-1811.3. Bases — Property dividends.
- 47-1811.4. Same — Determination of depreciation deduction.

Subchapter XII. Assessment and Collection; Time of Payment.

- 47-1812.1. General duties of Mayor.
- 47-1812.2. Records and statements.
- 47-1812.3. Examination of books and witnesses; failure to obey summons or permit examination; prosecutions.
- 47-1812.4. Duty of Mayor to make return.
- 47-1812.5. Determination of deficiency; protest by taxpayer; hearing; determination of taxable income; effect thereof.
- 47-1812.6. Jeopardy assessment.
- 47-1812.7. Payment of tax.
- 47-1812.8. Withholding of tax.
- 47-1812.9. Lien liability.
- 47-1812.10. Period of limitation upon assessment and collection.
- 47-1812.11. Credits and refunds for overpayments.
- 47-1812.11a. Tax check-off.
- 47-1812.12. Closing agreements.
- 47-1812.13. Compromises.
- 47-1812.14. Declaration of estimated tax by corporations, financial institutions, and unincorporated businesses.

Sec.

- 47-1812.15. "Person" defined.
- 47-1812.16. Collection by Mayor.
- 47-1812.17. Furnishing copy of federal return.

Subchapter XIII. Penalties and Interest.

- 47-1813.1. Additions to tax — Delinquencies.
- 47-1813.2. Same — Interest on deficiencies.
- 47-1813.3. Same — Fraud.
- 47-1813.4. Same — Nonpayments.
- 47-1813.5. Same — Payment extensions.
- 47-1813.6. Violations.
- 47-1813.7. Application of subchapter.

Subchapter XIV. Licenses.

- 47-1814.1. Requirement for a professional license.
- 47-1814.1a. Persons engaging in a profession.
- 47-1814.2. Same — Duration.
- 47-1814.3. Same — Posting and inspection.
- 47-1814.4. Same — Revocation.
- 47-1814.5. Same — Renewal.
- 47-1814.6. Same — Failure to obtain.
- 47-1814.7. Certain suits forbidden.
- 47-1814.8. Rulemaking.
- 47-1814.9. Applicability provisions.

Subchapter XV. Appeal.

- 47-1815.1. Right of aggrieved persons to judicial appeal.

Subchapter XVI. Rules and Regulations.

- 47-1816.1. Rules and regulations — Tax provisions.
- 47-1816.2. Same — Revenue Act of 1956.
- 47-1816.3. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code.

Subchapter I. Repeal of Prior Income Tax Law and Applicability of Subchapter; General Definitions.

§ 47-1801.1. Repeal of the District of Columbia Income Tax Act of 1939 for certain purposes.

The District of Columbia Income Tax Act of 1939 is hereby repealed with respect to taxable years or portions thereof beginning on and after the first day of January 1947 for all purposes, except the following purposes in connection with taxes due or accrued under said Act:

(1) For the imposition of assessments and penalties, civil and criminal, for the violation of, or failure to comply with, any provisions of such Act and the regulations prescribed thereunder;

(2) For requiring the making, filing, and submission of returns and reports required by such Act;

(3) For the examination of all books, records, and other documents, and witnesses;

(4) For the assessment and collection of the taxes imposed by such Act and the filing of liens therefor; and

(5) For the allowance of refunds of overpayments of any taxes assessed under the provisions of such Act. (July 16, 1947, 61 Stat. 331, ch. 258, art. I, title I, § 1; 1973 Ed., § 47-1551; enacted Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-1624 and 47-1810.1.

Emergency act amendments. — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

Legislative history of Law 11-216. — Law 11-216, the "Economic Recovery Conformity Temporary Act of 1996," was introduced in Council and assigned Bill No. 11-829. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-414 and transmitted to both Houses of Congress for its review. D.C. Law 11-216 became effective on April 9, 1997.

Temporary prohibition on the increase in certain taxes. — Section 2 of D.C. Law 11-216 prohibits, on a temporary basis, the

increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of the federal income tax applicable solely to residents of the District of Columbia under the Internal Revenue Code of 1986.

Section 5(b) of D.C. Law 11-216 provided that the act shall expire after 225 days of its having taken effect.

Editor's notes. — The text of the repealed District of Columbia Income Tax Act of 1939 appears in D.C. Code, §§ 47-1501 to 47-1547, 1973 Edition.

Income tax constitutional. — Congress was constitutionally empowered to impose an income tax on individuals residing in the District, notwithstanding that they had no elected representatives in Congress. *Breakefield v. District of Columbia*, 442 F.2d 1227 (D.C. Cir. 1970), cert. denied, 401 U.S. 909, 91 S. Ct. 871, 27 L. Ed. 2d 807 (1971).

Domicile is a prerequisite to tax liability. *District of Columbia v. Davis*, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

§ 47-1801.1a. Effect of repeal or amendment.

(a) *Existing rights and liabilities.* — Unless otherwise provided by law, the repeal or amendment of any provision of this chapter shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such repeal or amendment, but all rights and liabilities under such chapter shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(b) *Crimes and penalties.* — All offenses committed, and penalties incurred, under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if the repeal or amendment had not been enacted. (July 16, 1947, ch. 258, art. I, title I, § 1A, formerly June 11, 1982, D.C. Law 4-118, § 204, 29 DCR 1770; renumbered and amended Oct. 1, 1987, D.C. Law 7-29, § 5, 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1810.1.

Legislative history of Law 4-118. — Law

4-118, the "District of Columbia Individuals, Estates, and Trusts Federal Conformity Tax Act of 1982," was introduced in Council and

assigned Bill No. 4-148, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 9, 1982 and March 23, 1982, respectively. Signed by the Mayor on April 23, 1982, it was assigned Act No. 4-181 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — Law 7-29, "D.C. Income and Franchise Tax Confor-

mity and Revision Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-183, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 16, 1987 and June 30, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-51 and transmitted to both Houses of Congress for its review.

§ 47-1801.2. Applicability of provisions — Taxable years.

The provisions of this chapter shall apply to the taxable year or part thereof beginning on the 1st day of January 1947 and to succeeding taxable years. (July 16, 1947, 61 Stat. 331, ch. 258, art. I, title I, § 2; 1973 Ed., § 47-1551a.)

Section references. — This section is referred to in § 47-1810.1.

§ 47-1801.3. Same — Returns and payments.

If the taxable year of any person ends on the last day of any month other than December prior to the first day of January 1947, such person shall file his return for such taxable year under the provisions of former subchapter I, and pay the taxes imposed by said sections on his income for such taxable year at the times specified therefor in said sections. Such taxpayer shall also file his return of income, received or accrued, according to his method of accounting, during the period between the last day of such taxable year and the first day of January 1947 under the provisions of former subchapter I, and pay the taxes imposed by said sections on his income for such period at the times specified therefor in said sections. Such portion of such person's income as is received or accrued, according to his method of accounting, during taxable years or parts thereof to which this chapter is applicable shall be reported and taxed under the provisions of this chapter; provided, however, that any person whose taxable year ends subsequent to the first day of January 1947 may irrevocably elect to file his return of his income for such entire taxable year and pay the taxes imposed thereon under the provisions of this chapter. (July 16, 1947, 61 Stat. 331, ch. 258, art. I, title I, § 3; 1973 Ed., § 47-1551b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1810.1.

References in text. — "Former subchapter I," referred to near the middle of the first and

second sentences, means the District of Columbia Income Tax Act of 1939, as amended, which was repealed by 61 Stat. 331, ch. 258, § 1, approved July 16, 1941.

§ 47-1801.4. General definitions.

For the purposes of this chapter and wherever appearing herein, unless otherwise required by the context the term:

(1) "District" means the District of Columbia.

(2) "Mayor" means the Mayor of the District of Columbia or his duly authorized representative or representatives.

(3) "Person" means an individual (other than a fiduciary), a fiduciary, a partnership (other than an unincorporated business), an association, an unincorporated business, and a corporation.

(4) "Individual" means all natural persons (other than fiduciaries), whether married or unmarried.

(5) "Fiduciary" means a guardian, trustee, executor, committee, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any person.

(6)(A) "Trade or business" means the engaging in or carrying on of any trade, business, profession, vocation or calling, or commercial activity in the District of Columbia, including activities in the District that benefit an affiliated entity of the taxpayer, the performance of the functions of a public office and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by such person or through an agent, and whether or not such person or agent performs any services in connection with the property; provided, however, that the term "trade or business" shall not include, for the purposes of this chapter, sales of tangible personal property whereby title to such property passes within or without the District, by a corporation or unincorporated business which does not physically have or maintain an office, warehouse, or other place of business in the District, and which has no officer, agent, or representative having an office or other place of business in the District, during the taxable year.

(B) For purposes of this chapter, the terms "agent" or "representative" shall not include any independent broker engaged independently in regularly soliciting orders in the District for sellers and who holds himself out as such.

(7) "Taxpayer" means any person required by this chapter to pay a tax, file a return or report, or apply for a license.

(8) "Fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(9) "Taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income of the taxpayer is computed under this chapter; if no fiscal year has been established by the taxpayer, they mean the calendar year. The term "taxable year" includes, in the case of a return made for a fractional part of a calendar or fiscal year under the provisions of this chapter or under regulations prescribed by the Mayor, the period for which such return is made; provided, however, that no taxpayer may change from a calendar year to a fiscal year or from a fiscal year to a calendar year within any taxable year without the written permission of the Mayor.

(10)(A) "Capital asset" means property defined or treated as a capital asset under the Internal Revenue Code of 1986.

(B) For the purpose of computing for any taxable year the tax imposed under this chapter with respect to sales or other dispositions of property referred to in subparagraph (A) of this paragraph, the provisions of the Internal Revenue Code of 1986 relating to the treatment of gains and losses (other than the alternative tax imposed by § 1201 of such Code) shall apply.

(11) "Dividend" means any distribution made by a corporation or financial institution (domestic or foreign) to its stockholders or members, out of its

earnings, profits, or surplus (other than paid-in surplus), whenever earned by the corporation or financial institution and whether made in cash or any other property (other than stock of the same class in the corporation or financial institution if the recipient of such stock dividend has neither received nor exercised an option to receive such dividend in cash or in property other than stock instead of stock) and whether distributed prior to, during, upon, or after liquidation or dissolution of the corporation or financial institution, except that in the case of any such distribution any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1986 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this chapter; provided, however, that in the case of any dividend which is distributed other than in cash or stock in the same class in the corporation or financial institution and not exempted from tax under this chapter, the basis of tax to the recipient thereof shall be the market value of such property at the time of such distribution; and provided, however, that the word "dividend" shall not include any dividend paid by a mutual life insurance company to its shareholders.

(12) "Stock" includes a share in any association, joint-stock company, or insurance company.

(13) "Shareholder" includes a member in an association, joint-stock company, or insurance company.

(14) "Include," "includes," or "including," when used in a definition contained in this chapter, shall not be deemed to exclude other things otherwise within the meaning of the word or words defined.

(15) "Deficiency" as used in this chapter with respect to any tax imposed by this chapter means:

(A) The amount or amounts by which the tax imposed by this chapter as determined by the Mayor exceeds the amount shown as the tax by the taxpayer upon his return; or

(B) The amount assessed as a tax by the Mayor if no return is filed by the taxpayer.

(16) "Corporation" includes any trust, association, joint-stock company, small business corporation as defined in § 1371 of the Internal Revenue Code of 1954 (26 U.S.C. § 1371), in effect as of October 18, 1982, S corporation as defined in § 1361(a) of the Internal Revenue Code of 1986, partnership that is classed or should be classed as a corporation for purposes of federal income taxation, any entity organized under § 29-601 et seq., or a foreign professional corporation that has obtained a certificate of authority under § 29-614, to render professional services in the District for any taxable year beginning after December 31, 1984.

(17) "Resident" means every individual domiciled within the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not such other individual is domiciled in the District. The term "resident" shall not include any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the government of the United States if such

employee is a bona fide resident of the state of residence of such elected officer, or any officer of the executive branch of such government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless such officers or Justices are domiciled within the District at any time during the taxable year. In determining whether an individual is a "resident", such individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

(18) "Nonresident" means every individual other than a resident.

(19) "Dependent" means a dependent as defined in § 152 of the Internal Revenue Code of 1986.

(20) "Head of household" shall have the same meaning as defined in § 2(b) of the Internal Revenue Code of 1986.

(21) "Wages" means wages as defined in § 3401(a) of the Internal Revenue Code of 1986.

(22) "Payroll period" means payroll period as defined in § 3401(b) of the Internal Revenue Code of 1986.

(23) "Employer" means employer as defined in § 3401(d) of the Internal Revenue Code of 1986.

(24) "Employee" shall apply only to an individual having a place of abode or residing or domiciled within the District at the time the tax is required to be withheld in respect to the individual's employment by another, and to every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether domiciled in the District or not. The term "employee" shall include an officer of a corporation, but shall not include any elective officer of the government of the United States or any officer or employee in the legislative branch of the Government of the United States whose compensation is paid by the Secretary of the Senate or Clerk of the House of Representatives, or any officer of the executive branch of such government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless such officers or Justices are domiciled within the District of Columbia at any time during the taxable year.

(25) "Financial institution" means any bank or trust company incorporated or required to be incorporated and doing business under the laws of the United States, the District of Columbia, or any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by the District or by any state, territorial, or federal authority having supervision over financial institutions. The term "financial institution" includes:

(A) Any savings and loan associations; and

(B) Any company, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, which company is organized or created under the laws of a foreign country, and which maintains an office or branch in the District.

(26) "Standard deduction" means:

(A) \$2,000 in the case of a return filed by a single individual, by a head of household, by a surviving spouse or jointly by husband and wife;

(B) \$1,000 in the case of a married person filing separately; or

(C) In the case of an individual who is a resident, as defined in paragraph (17) of this section, for less than a full 12-month taxable year, the amounts specified in subparagraphs (A) and (B) of this paragraph prorated by the number of months that the individual was a resident.

(27) "Surviving spouse" shall have the same meaning as defined in § 2(a) of the Internal Revenue Code of 1986.

(28) "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, approved April 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), as amended through May 24, 1985.

(28A) "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986 (100 Stat. 2085; 26 U.S.C. 1 et seq.), as amended through April 11, 1995. The provisions of the Internal Revenue Code of 1986 shall be effective on the same dates that they are effective for federal tax purposes, except that section 162(l) shall only apply to taxable years beginning after December 31, 1994.

(29) "International banking facility" or "IBF" shall have the same meaning as defined in § 204.8(a)(1) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR 204.8(a)(1)).

(30) "International banking facility extension of credit" or "IBF loan" shall have the same meaning as defined in § 204.8(a)(3) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR 204.8(a)(3)).

(31) "International Banking Facility time deposit" or "IBF time deposit" shall have the same meaning as defined in § 204.8(a)(2) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR 204.8(a)(2)).

(32) "Blind" means a taxpayer whose central visual acuity does not exceed $20/200$ in the better eye with correcting lenses or whose visual acuity is greater than $20/200$ but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(33) "Subpart F income" shall have the same meaning as defined in § 952 of the Internal Revenue Code of 1986. (July 16, 1947, 61 Stat. 332, ch. 258, art. I, title I, § 4; May 3, 1948, 62 Stat. 206, ch. 246, § 1; May 27, 1949, 63 Stat. 129, ch. 146, title IV, §§ 401, 402; March 31, 1956, 70 Stat. 68, ch. 154, § 2; Sept. 19, 1966, 80 Stat. 809, Pub. L. 89-585, § 1; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 703; Oct. 31, 1969, 83 Stat. 176, Pub. L. 91-106, title

VI, § 601(a); 1973 Ed., § 47-1551c; Oct. 21, 1975, D.C. Law 1-23, title VI, §§ 601(1), (2), 609, 22 DCR 2105, 2106, 2114; Mar. 3, 1979, D.C. Law 2-150, § 2, 25 DCR 7038; Mar. 6, 1979, D.C. Law 2-158, §§ 4, 5, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 101, 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 101, 29 DCR 1770; July 24, 1982, D.C. Law 4-130, § 2, 29 DCR 2412; July 24, 1982, D.C. Law 4-131, § 101, 29 DCR 2418; Sept. 17, 1982, D.C. Law 4-150, § 101, 29 DCR 3377; Oct. 8, 1983, D.C. Law 5-32, § 2, 30 DCR 4013; Mar. 14, 1985, D.C. Law 5-147, § 2(a), 31 DCR 6416; Sept. 5, 1985, D.C. Law 6-16, § 3(b), 32 DCR 3578; Sept. 5, 1985, D.C. Law 6-24, § 2, 32 DCR 3611; May 3, 1986, D.C. Law 6-110, § 2, 33 DCR 1744; June 24, 1987, D.C. Law 7-9, § 2(a), (b), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(a), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(a), 35 DCR 5398; May 10, 1989, D.C. Law 7-231, § 49, 36 DCR 492; Sept. 20, 1989, D.C. Law 8-25, § 2, 36 DCR 4721; Sept. 26, 1990, D.C. Law 8-166, § 2, 37 DCR 4829; Aug. 17, 1991, D.C. Law 9-19, title I, § 113, 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-25, § 2, 38 DCR 4196; June 14, 1994, D.C. Law 10-128, § 103(a), 41 DCR 2096; Apr. 9, 1997, D.C. Law 11-182, § 2, 43 DCR 4251; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to foreign professional corporations transacting business in District, see § 29-614.

As to required report by Mayor to Council concerning any amendment, repeal, or replacement of Internal Revenue Code of 1954, see § 47-1816.3.

Section references. — This section is referred to in §§ 1-233, 47-1401, 47-1803.3, 47-1804.1, 47-1810.1, 47-1812.8, 47-1816.3, 47-2510, and 47-2514.

Effect of amendments. — D.C. Law 11-182, in (28A), substituted "April 11, 1995" for "August 10, 1993" in the first sentence, and added the exception in the second sentence.

Temporary amendment of section. — Section 2 of D.C. Law 11-147, in (28A), substituted "April 11, 1995" for "August 10, 1993" in the first sentence and added the exception in the second sentence.

D.C. Law 11-147, the "District of Columbia Income and Franchise Tax Act of 1947 Conformity Temporary Amendment Act of 1996," did not have an expiration provision.

Emergency act amendments. — For temporary amendment of section, see § 2 of the District of Columbia Income and Franchise Act of 1947 Conformity Emergency Amendment Act of 1996 (D.C. Act 11-263, April 19, 1996, 43 DCR 2179), and see § 2 of the District of Columbia Income and Franchise Tax Act of 1947 Conformity Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-28, March 11, 1997, 44 DCR 1895).

Legislative history of Law 1-23. — Law 1-23, the "Revenue Act of 1975," was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first,

amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-150. — Law 2-150, the "Corporate and Unincorporated Business Tax Revision Act of 1978," was introduced in Council and assigned Bill No. 2-394, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-339 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-158. — Law 2-158, the "Tax Return Confidentiality Act of 1978," was introduced in Council and assigned Bill No. 2-402, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-328 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-95. — Law 3-95, the "District of Columbia Financial Institutions Tax Act of 1980," was introduced in Council and assigned Bill No. 3-190, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 3, 1980 and June 17, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-217 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-130. — Law 4-130, the "Technical Amendments to the District of Columbia Financial Institutions Tax Act of 1980 and alley closing in square 569 Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-328, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982 and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-195 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — Law 4-131, the "District of Columbia Tax Enforcement Act of 1982," was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-150. — Law 4-150, the "International Banking Facilities Tax District of Columbia Redevelopment Act of 1945 Amendment, and Cable Television Communications Act of 1981 Technical Clarification Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-360, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 22, 1982 and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-221 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-32. — See note § 47-1816.3.

Legislative history of Law 5-147. — Law 5-147, the "D.C. Income and Franchise Tax Conformity Amendment Act of 1984," was introduced in Council and assigned Bill No. 5-510, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 23, 1984 and November 7, 1984, respectively. Signed by the Mayor on November 29, 1984, it was assigned Act No. 5-211 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-16. — Law 6-16, the "Professional Corporation Franchise Tax Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-101, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 14, 1985, and May 28, 1985, respectively. Signed by the Mayor on June 10, 1985, it was assigned Act No. 6-31 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-24. — Law 6-24, the "Tax Conformity Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-172, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 14, 1985 and May 28, 1985, respectively. Signed by the Mayor on June 10, 1985, it was assigned Act No. 6-39 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-110. — Law 6-110, the "Income and Franchise Tax Technical Conformity Act of 1987," was introduced in Council and assigned Bill No. 6-341, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on February 11, 1986 and February 25, 1986, respectively. Signed by the Mayor on March 11, 1986, it was assigned Act No. 6-140 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-9. — Law 7-9, the "D.C. Income and Franchise Tax Conformity and Inheritance and Estate Tax Revision Act of 1986 Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-129, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 31, 1987 and April 14, 1987, respectively. Signed by the Mayor on May 6, 1987, it was assigned Act No. 7-20 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-141. — Law 7-141, the "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-445, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on June 30, 1988, it was assigned Act No. 7-193 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-231. — See note to § 47-119.

Legislative history of Law 8-25. — Law 8-25, the "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-152, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-47 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-166. — Law 8-166, the "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1990," was introduced in Council and assigned

Bill No. 8-551, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 12, 1990, and June 26, 1990, respectively. Signed by the Mayor on July 12, 1990, it was assigned Act No. 8-231 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-19. — Law 9-19, the "Omnibus Budget Support Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-25. — Law 9-25, the "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-121, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-52 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 11-147. — Law 11-147, the "District of Columbia Income and Franchise Tax Act of 1947 Conformity Temporary Amendment Act of 1996," was introduced in Council and Assigned Bill No. 11-632. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 20, 1996, it was assigned Act No. 11-271 and transmitted to both Houses of Congress for its review. D. C. Law 11-147 became effective on July 20, 1996.

Legislative history of Law 11-182. — Law 11-182, the "District of Columbia Income and Franchise Tax Act of 1947 Conformity Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-633, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-333 and transmitted to both Houses of Congress for its review. D.C. Law 11-182 became effective on April 9, 1997.

References in text. — Section 1201 of the Internal Revenue Code of 1986, referred to in (10)(B), is codified as 26 U.S.C. § 1201.

Section 152 of the Internal Revenue Code of 1986, referred to in (19), is codified as 26 U.S.C. § 152.

Section 2(b) of the Internal Revenue Code of 1986, referred to in (20), is codified as 26 U.S.C. § 2(b).

Section 3401(a), (b) and (d), of the Internal Revenue Code of 1986, referred to in (21), (22), and (23), respectively, are codified as 26 U.S.C. § 3401(a), (b), and (d), respectively.

Section 2(a) of the Internal Revenue Code of 1986, referred to in (27), is codified as 26 U.S.C. § 2(a).

Section 952 of the Internal Revenue Code of 1986, referred to in (33), is codified as 26 U.S.C. § 952.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 and § 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of these acts.

Liquidating shares held for few days not capital assets. — Liquidating shares distributed to shareholders and held by them for a few days before a sale to others are not a capital asset. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Assets demand independent tax treatment, and perhaps differing treatment, according to whether they belong to a corporation, ongoing or dissolved, or to its shareholders. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Good will of an acquired company may be a capital asset. *ACF Indus., Inc. v. District of Columbia*, 382 F.2d 463 (D.C. Cir. 1967).

For District income and franchise tax purposes, good will can qualify as a capital asset if held for the required length of time. *District of Columbia v. ACF Indus., Inc.*, 350 F.2d 795 (D.C. Cir. 1965).

Congressional intent regarding capital gains. — Congress intended to give a different treatment to taxpayers in the District than to those who might be liable to capital gains taxes under the federal scheme. *District of Columbia v. Goldman*, 328 F.2d 520 (D.C. Cir. 1963).

Manufacturer exercising control over engaging in business. — An automobile manufacturer which exercises a large degree of control over the business operations of its dealers in the District is engaged in trade or business in the District. *District of Columbia v. GMC*, 336 F.2d 885 (D.C. Cir. 1964), rev'd on other grounds, 380 U.S. 553, 85 S. Ct. 1156, 14 L. Ed. 2d 68 (1965).

Earnings distribution not payment for stock. — A distribution made by a corporation out of its corporate earnings is not a payment in exchange for or in extinguishment of the stock upon which it is declared. *Snow v. District of Columbia*, 361 F.2d 523 (D.C. Cir. 1965).

But if a distribution represents a return of investment, it is not income. *Snow v. District of Columbia*, 361 F.2d 523 (D.C. Cir. 1965).

Unrealized appreciation of corporation's assets "dividend" where full value received. — Unrealized appreciation in the value of the assets of a corporation will become a "dividend" when the corporation, on dissolution, distributes those assets to its stockholders where it received full value upon the sale of its assets. *Estate of Uline v. District of Columbia*, 360 F.2d 820 (D.C. Cir. 1966).

But unrealized appreciation in realty not dividend. — The unrealized appreciation in the value of improved realty which is held by a corporation for income and not for sale does not become a "dividend" when the corporation distributes its assets to its stockholders upon dissolution. *District of Columbia v. Oppenheimer*, 301 F.2d 563 (D.C. Cir. 1962).

Amounts distributed in complete liquidation are dividends. — Amounts distributed in a complete liquidation of a corporation are properly includable in the stockholders' gross income as a dividend under this section. *Berliner v. District of Columbia*, 258 F.2d 651 (D.C. Cir.), cert. denied, 357 U.S. 937, 78 S. Ct. 1384, 2 L. Ed. 2d 1551 (1958).

Where a corporation liquidates entirely, the distribution from its earnings constitutes a dividend for District income tax purposes. *Doyle v. District of Columbia*, 363 F.2d 694 (D.C. Cir. 1966).

To the extent that a corporation's liquidating shares represent its earned surplus, they are properly considered under this section to be dividends constituting gross income to its recipient shareholders. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

And taxation of liquidating dividend constitutional. — The taxation of a liquidating dividend representing earnings realized by a corporation does not violate the due process clause of the Fifth Amendment. *Berliner v. District of Columbia*, 258 F.2d 651 (D.C. Cir.), cert. denied, 357 U.S. 937, 78 S. Ct. 1384, 2 L. Ed. 2d 1551 (1958); *American Sec. & Trust Co. v. District of Columbia*, 408 F.2d 1295 (D.C. Cir. 1969).

Income and franchise taxpayer bears burden of establishing his claim for a refund. *District of Columbia v. ACF Indus., Inc.*, 350 F.2d 795 (D.C. Cir. 1965).

Federal credit unions are not included in the statutory definition of financial institutions in paragraph (25) of this section. *Georgetown Univ. Employees Fed. Credit Union v. District of Columbia*, App. D.C., 525 A.2d 1014 (1986).

Burden on taxpayer to establish change of status. — If, at any time, an individual becomes domiciled in the District of Columbia, it is his burden to establish any change of status upon which he relies to escape the tax. *Andrews v. District of Columbia*, App. D.C., 443 A.2d 566, cert. denied, 459 U.S. 909, 103 S. Ct. 216, 74 L. Ed. 2d 172 (1982); *District of Columbia v. Woods*, App. D.C., 465 A.2d 385 (1983).

Requisites for establishing change of domicile are physical presence, and an intent to abandon the former domicile and remain in the new one for an indefinite period of time. *District of Columbia v. Woods*, App. D.C., 465 A.2d 385 (1983).

Physical presence does not mean only temporary visit; there must be the establishment of a new physical residence. *District of Columbia v. Woods*, App. D.C., 465 A.2d 385 (1983).

Mere absence from fixed home, however long continued, cannot work the change in domicile. *District of Columbia v. Woods*, App. D.C., 465 A.2d 385 (1983).

In order for partner to claim partnership loss deduction on partner's fractional year income tax return for the District of Columbia, the partnership's taxable year, or other formally recognized accounting period during which all partner's distributive shares are commonly computed, must close with or within the partner's fractional tax year. *Ward v. District of Columbia*, 111 WLR 373 (Super. Ct. 1983).

Taxpayers should not be penalized for originally taking position on unresolved tax question different from that ultimately adopted by the court. *Bord v. District of Columbia*, 344 F.2d 560 (D.C. Cir. 1965).

Cited in *Stone v. District of Columbia*, 198 F.2d 601 (D.C. Cir. 1952); *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953); *District of Columbia v. Cities Serv. Oil Co.*, 258 F.2d 426 (D.C. Cir. 1958); *District of Columbia v. Neyman*, 417 F.2d 1140 (D.C. Cir. 1969); *Alexander v. District of Columbia*, App. D.C., 370 A.2d 1327 (1977); *District of Columbia v. Califano*, App. D.C., 647 A.2d 761 (1994).

§ 47-1801.5. Effect of repeal or amendment.

Transferred.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Editor's notes. — Section 5(a) of D.C. Law 7-29 redesignated this section as § 47-1801.1a.

*Subchapter II. Exempt Organizations.***§ 47-1802.1. Exempt organizations — In general.**

The following organizations shall be exempt from taxation under this section, except to the extent that such organizations have unrelated business income subject to tax under § 511 of the Internal Revenue Code of 1986 and such unrelated business income shall be taxed in the same manner and to the same extent as the tax imposed by subchapters VII and VIII of this chapter:

- (1) Labor organizations;
- (2) Fraternal beneficiary societies, orders, or associations:
 - (A) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and
 - (B) Providing for the payment of life, sick, or accident benefits to the members of such society, order, or association, or their dependents;
- (3) Cemetery companies owned and operated exclusively for the benefit of their members and which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private individual or shareholder;
- (4) Corporations, and any community chest, fund, or foundation, organized and operated to a substantial extent within the District, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private individual or shareholder, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation (except as otherwise provided in § 501(h) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(h))) and which does not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office;
- (5) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private individual or shareholder;
- (6) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted principally to charitable, educational, or recreational purposes within the District;
- (7) Insurance companies, companies which guarantee the fidelity of any individual or individuals, such as bonding companies, and companies which furnish abstracts of title or which insure titles to real estate, all of which pay taxes on their gross earnings, premiums, or gross receipts under existing laws of the District;
- (8) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount

thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(9) Corporations organized under acts of Congress, if such corporations are instrumentalities of the United States and if, under such acts, as amended and supplemented, such corporations are exempt from federal income taxes;

(10) Voluntary employees' beneficiary associations providing for the payment of life, sick, or accident benefits to the members of such association or their dependents, if:

(A) No part of their net earnings inures (other than through such payments) to the benefit of any private individual or shareholder; and

(B) Eighty-five per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(11) Voluntary employees' beneficiary associations providing for the payment of life, sick, or accident benefits to the members of such association or their dependents or their designated beneficiaries, if:

(A) Admission to membership in such association is limited to individuals who are officers or employees of the United States government or the government of the District of Columbia; and

(B) No part of the net earnings of such association inures (other than through such payments) to the benefit of any private individual or shareholder;

(12) An organization described in § 501(c)(25) of the Internal Revenue Code of 1986. (July 16, 1947, 61 Stat. 334, ch. 258, art. I, title II; 1973 Ed., § 47-1554; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(3), 22 DCR 2106; Mar. 3, 1979, D.C. Law 2-147, § 2, 25 DCR 6987; Sept. 13, 1980, D.C. Law 3-95, § 102, 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 102, 29 DCR 1770; June 24, 1987, D.C. Law 7-9, § 2(c), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(b), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-1453, 47-1802.2, 47-2722, and 47-2752.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 2-147. — Law 2-147, the "District of Columbia Charitable Organizations Conformity Tax Act of 1978," was introduced in Council and assigned Bill No. 2-377, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-324 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Tax exemption of International Telecommunications Satellite Consortium. — See the Act of October 22, 1970, 84 Stat. 1091, Pub. L. 91-494.

Nonprofit cafeterias and recreational facilities on federal property not exempt. — A nonprofit corporation which operates cafeterias in federal government buildings and recreation facilities in federal parks is not exempt from franchise, motor vehicle, and personal property taxes. *Government Servs., Inc. v. District of Columbia*, 189 F.2d 662 (D.C. Cir.), cert. denied, 342 U.S. 828, 72 S. Ct. 51, 96 L. Ed. 626 (1951).

Cited in *National Medical Ass'n v. District of Columbia*, App. D.C., 611 A.2d 53 (1992).

§ 47-1802.2. Same — Regulations.

The Mayor of the District of Columbia is authorized to promulgate regulations to carry out the purposes of § 47-1802.1(4), this section, and § 47-1802.3 and may amend, by regulation, the appropriate provisions of Title 16 of the District of Columbia Rules and Regulations. (1973 Ed., § 47-1555; Mar. 3, 1979, D.C. Law 2-147, § 3, 25 DCR 6987; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1802.3.

Legislative history of Law 2-147. — See note to § 47-1802.1.

Delegation of authority pursuant to Law 2-147. — See Mayor's Order 86-134, August 19, 1986.

§ 47-1802.3. Same — Applicability of provisions.

Section 47-1802.2 and this section shall apply to taxable years beginning after December 31, 1977. (1973 Ed., § 47-1556; Mar. 3, 1979, D.C. Law 2-147, § 4(a), 25 DCR 6987; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1802.2.

Legislative history of Law 2-147. — See note to § 47-1802.1.

Subchapter III. Net Income, Gross Income and Exclusions Therefrom, and Deductions.

§ 47-1803.1. "Net income" defined.

For the purposes of this chapter and wherever appearing herein, unless otherwise required by the context, the words "net income" mean the gross income of a taxpayer less the deductions allowed by this chapter. (July 16, 1947, 61 Stat. 335, ch. 258, art. I, title III, § 1; 1973 Ed., § 47-1557; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1803.2. Gross income — Items included and excluded; "adjusted gross income" defined.

(a) *Gross income.* — The words "gross income" shall have the same meaning as defined in § 61 of the Internal Revenue Code of 1986. In addition to the items specifically included or excluded by reference to § 61(b) of the Internal Revenue Code of 1986, the following items shall also be included or excluded in the computation of District gross income:

(1) Interest upon the obligations of a state, territory of the United States, or any political subdivision thereof, but not including the District of Columbia, shall be included in the computation of District gross income; except, that individuals, estates and trusts shall not include interest on the obligations of the District of Columbia, a state, a territory of the United States, or any political subdivision thereof, in the computation of District gross income.

(2) The following items shall be excluded in the computation of District gross income:

(A) After January 23, 1983, interest and dividend income on obligations or securities of the United States, or its agencies or instrumentalities, to the extent that this income is included in federal gross income.

(B) The amount of any income or gain included in the taxpayer's federal gross income for the taxable year to the extent that it was included as income or gain in an income or franchise tax return filed by:

(i) The taxpayer with the District for any taxable year beginning prior to January 1, 1982; or

(ii) An individual by reason of whose death the taxpayer acquired the right to receive the income or gain.

(C) The amount of any trust distribution to the taxpayer included in his federal gross income for the taxable year to the extent that such amount was previously taxed to the trust by the District.

(D) The distributive share of a trade or business net income that is subject to the unincorporated business franchise tax imposed under subchapter VIII of this chapter.

(E) Any state or local income tax refund included in federal gross income.

(F) Income received or, in the case of a taxpayer reporting on an accrual basis, income accrued when the taxpayer was not a resident of the District.

(G) Income of any kind to the extent required by any treaty obligation of the United States, including reciprocal agreements between the United States and other countries relating to the taxability of their respective airlines and ships under foreign flag owned by foreign corporations.

(H) In the case of an International Banking Facility the gross income to the parent depository institution resulting from any IBF time deposit or any IBF loan; provided, however, that no expense or loss attributable to such income shall be allowed as a deduction under any other provision of this chapter, and; provided, further, that this exclusion from gross income shall not include any amount derived by an International Banking Facility from IBF time deposits or IBF loans if the loan or deposit of funds is secured by a mortgage, deed of trust, or other lien upon real property located within the District of Columbia.

(I) Income derived from the sale of tangible personal property to the United States by corporations and unincorporated businesses having their principal places of business located outside the District, which property is delivered from places outside the District for use outside the District; provided, however, that the taxpayer shall furnish to the Mayor a statement in writing of the amount of gross sales so made and, if required by the Mayor, a list of the names of the agencies of the United States through which such property was sold.

(J) Dues and initiation fees in the case of any club organized and operated exclusively for pleasure and recreation, no part of the net earnings of which inures to the benefit of any private individual or shareholder. As used in this subparagraph, the term "dues" means only sums paid or incurred by

members on a monthly, quarterly, annual, or other periodic basis for the privilege of being members of such club and any pro rata assessment made against the members as such. The term “dues” does not include any sums paid or incurred by members or their guests for food, beverages, or other tangible personal property purchased or for the use of the club’s social, athletic, sporting, and other facilities. The term “initiation fees” includes any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of interest or indebtedness.

(K) The amount of any compensation deferred under the employee deferred compensation program pursuant to § 47-3601; provided, that the amount of any such compensation or any income attributable to the amount of compensation so deferred shall be includable in gross income for the taxable years in which such compensation or other income is paid or otherwise made available to the employee or other beneficiary.

(L) Social security and tier 1 railroad retirement benefits subject to taxation under § 86 of the Internal Revenue Code of 1986.

(M) Certain disability income payments excludable under § 105(d) of the Internal Revenue Code of 1986 before the enactment of the Social Security Amendments of 1983 (26 U.S.C. § 86).

(N) Pension, military retired pay, annuity income, or survivor benefits received from the District of Columbia or the federal government by persons who are 62 years of age or older by the end of the taxable year, except that:

(i) The exclusion shall not exceed the lesser of \$3,000 or the actual amount of the pension, military retired pay, or annuity received during the taxable years; and

(ii) The pension, military retired pay or annuity is otherwise subject to taxation under this chapter.

(O) [Repealed].

(P) In the case of any person entitled to a share in the income of any corporation which is a small business corporation as defined in § 1371 of the Internal Revenue Code of 1954, making an election under § 1372(a) of the Internal Revenue Code of 1954, or an S corporation as defined in § 1361(a) and (b) of the Internal Revenue Code of 1986, making an election under § 1362(a) of the Internal Revenue Code of 1986, and which is subject to tax under the provisions of subchapter VII of this chapter, an amount equal to the prorata share of the income, to the extent that the portion of the income so excluded is reported by and taxed against the corporation under the provisions of subchapter VII of this chapter.

(b) *Adjusted gross income.* — The words “adjusted gross income” as used in this chapter mean:

(1) In the case of an individual, estate, or trust, the same meaning as defined in § 62 of the Internal Revenue Code of 1986; and

(2) In the case of an individual, estate, or trust not required to file a District return for a complete calendar or fiscal year, gross income reported under subsection (a) of this section, less deductions allowed under § 62 of the Internal Revenue Code of 1986, which were paid or accrued during the period covered by the District return.

(c) [Repealed]. (July 16, 1947, 61 Stat. 335, ch. 258, art. I, title III, § 2; May 3, 1948, 62 Stat. 207, ch. 246, § 3; May 27, 1949, 63 Stat. 130, ch. 146, title IV, §§ 403, 420; Sept. 4, 1957, 71 Stat. 605, Pub. L. 85-281, §§ 1, 3; June 27, 1960, 74 Stat. 219, Pub. L. 86-522, § 1; Sept. 19, 1966, 80 Stat. 812, Pub. L. 89-591, § 1; Oct. 31, 1969, 83 Stat. 176, 177, Pub. L. 91-106, title VI, §§ 601(b)(1), (2), 602; 1973 Ed., § 47-1557a; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(4), 22 DCR 2106; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(a), 23 DCR 8749; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 103(a), 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 103, 29 DCR 1770; July 24, 1982, D.C. Law 4-130, § 2, 29 DCR 2412; Sept. 17, 1982, D.C. Law 4-150, § 102, 29 DCR 3377; Oct. 8, 1983, D.C. Law 5-32, § 3(a), (b), 30 DCR 4013; Sept. 26, 1984, D.C. Law 5-118, § 6(c), 31 DCR 4034; Mar. 14, 1985, D.C. Law 5-147, § 2(b), 31 DCR 6416; July 24, 1986, D.C. Law 6-129, § 2(a), 33 DCR 3221; June 24, 1987, D.C. Law 7-9, § 2(d), (e), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(c)(1)-(4), 34 DCR 5097; July 8, 1988, D.C. Law 7-130, § 2(a), 35 DCR 4104; Sept. 21, 1988, D.C. Law 7-145, § 2(a), 35 DCR 5407; July 26, 1989, D.C. Law 8-17, § 2(a), 36 DCR 4160; Mar. 11, 1992, D.C. Law 9-74, § 2, 39 DCR 27; Mar. 11, 1992, D.C. Law 9-74, § 2, 39 DCR 27; Mar. 20, 1992, D.C. Law 9-86, § 2, 39 DCR 716; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to exemption of monies received by tenants through the Tenant Assistance Program, see § 45-2538.

As to the Employee Deferred Compensation Program, see § 47-3601.

Section references. — This section is referred to in §§ 47-1806.6, 47-1809.10 and 47-1810.1.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-124. — Law 1-124, the "Revenue Act For Fiscal Year 1978," was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-130. — See note to § 47-1801.4.

Legislative history of Law 4-150. — See note to § 47-1801.4.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Legislative history of Law 5-118. — Law 5-118, the "Deferred Compensation Act of 1984," was introduced in Council and assigned

Bill No. 5-177, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-170 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-147. — See note to § 47-1801.4.

Legislative history of Law 6-129. — Law 6-129, the "Corporation Franchise Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-352, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 15, 1986 and April 29, 1986, respectively. Signed by the Mayor on May 16, 1986, it was assigned Act No. 6-165 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-130. — Law 7-130, the "Income and Franchise Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 7-468. The Bill was adopted on first and second readings on April 19, 1988 and May 3, 1988, respectively. Signed by the Mayor on May 19, 1988, it was assigned Act No. 7-180 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-145. — Law 7-145, the "Income and Franchise Tax Amendment Act of 1988," was introduced in Council

and assigned Bill No. 7-475, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on June 30, 1988, it was assigned Act No. 7-197 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — Law 8-17, the "Revenue Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-74. — Law 9-74, the "District of Columbia Income and Franchise Tax Act of 1947 Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-350. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-126 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-86. — Law 9-86, the "District of Columbia Income and Franchise Tax Act of 1947 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-344, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Approved without the signature of the Mayor on January 29, 1992, it was assigned Act No. 9-149 and transmitted to both Houses of Congress for its review. D.C. Law 9-86 became effective on March 20, 1992.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 and § 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of these acts.

Tax exemption. — See § 40-853.

Editor's notes. — Section 105(d) of the Internal Revenue Code of 1986, 26 U.S.C. § 105(d), referred to in (a)(2)(M), was repealed by Pub. L. 98-21, Title I, § 122(b), April 20, 1983, 97 Stat. 87.

Federal statute looked at in determining Congressional intent. — It is important to look to the federal statute in determining what Congress might have intended when it enacted this section, since there appears to be no legislative, judicial, or administrative guidance as to the proper interpretation and application of this section. *Blanchard v. District of Columbia*, App. D.C., 420 A.2d 1373 (1980).

Domicile is a prerequisite to tax liability. *District of Columbia v. Davis*, 371 F.2d 964

(D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

"Gross income" defined. — "Gross income" does not mean, without more, "income derived from any source whatever," but its scope is limited by the exceptions built into the Code. *District of Columbia v. Goldman*, 328 F.2d 520 (D.C. Cir. 1963).

Passive activities. — In general, gross losses from passive activities may be offset against gross income from passive activities, but net losses from passive activities may not be deducted from ordinary income; under both federal law (26 U.S.C. § 469) and this section, any rental activity is a "passive activity."

Earnings liquidation distribution constitutes dividend. — Where a corporation liquidates entirely, the distribution from its earnings constitutes a dividend for District income tax purposes. *Doyle v. District of Columbia*, 363 F.2d 694 (D.C. Cir. 1966).

As does salary reductions for annuity contract. — Where an annuity contract is purchased by a tax-exempt employer for an employee under a plan which provides that the annuity contract will be purchased with an amount, part of which represents the employee's agreed salary reduction, the amounts of the salary reduction are income to the employee currently, rather than includable in the employee's income in a later year when the annuity contract pays amounts to the employee pursuant to its contractual terms. *Blanchard v. District of Columbia*, App. D.C., 420 A.2d 1373 (1980).

Liquidating share held for few days not capital assets. — Liquidating shares which are distributed to shareholders and held by them for a few days before a sale to others are not a capital asset. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Assets demand independent tax treatment, perhaps differing treatment, according to whether they belong to a corporation, ongoing or dissolved, or to its shareholders. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Good will of an acquired company may be a capital asset. *ACF Indus., Inc. v. District of Columbia*, 382 F.2d 463 (D.C. Cir. 1967).

For District income and franchise tax purposes, good will can qualify as a capital asset if held for the required length of time. *District of Columbia v. ACF Indus., Inc.*, 350 F.2d 795 (D.C. Cir. 1965).

District capital gain exclusion is generous as to taxpayers and the public interest. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Intentional demolition of buildings not business loss. — Where taxpayer buys improved property for use in a trade or business with the intent of razing the buildings thereon,

and then he subsequently demolishes them, he has not suffered a "loss in trade or business." *Reliable Home Appliances, Inc. v. District of Columbia*, App. D.C., 219 A.2d 501 (1966).

Cited in *Industrial Coverall Laundry Corp. v. District of Columbia*, 188 F.2d 669 (D.C. Cir.

1951); *Stone v. District of Columbia*, 198 F.2d 601 (D.C. Cir. 1952); *District of Columbia v. General Teleradio, Inc.*, 230 F.2d 830 (D.C. Cir. 1956); *Estate of Uline v. District of Columbia*, 360 F.2d 820 (D.C. Cir. 1966); *District of Columbia v. Neyman*, 417 F.2d 1140 (D.C. Cir. 1969).

§ 47-1803.3. Same — Deductions.

(a) *Deductions allowed.* — The following deductions shall be allowed from gross income in computing net income of corporations, financial institutions, unincorporated businesses and partnerships:

(1) *Expenses.* — All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business (except as otherwise provided herein); traveling expenses while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. Any business expenses allowed under this paragraph shall be subject to the same limitations as provided for in the Internal Revenue Code of 1986.

(2) *Interest.* — All interest paid or accrued within the taxable year on indebtedness which is deductible under the provisions of § 163 of the Internal Revenue Code of 1986.

(3) *Taxes.* — All taxes paid or accrued during the taxable year which are deductible under the provisions of § 164 of the Internal Revenue Code of 1986; provided, however, that no deduction shall be allowed for:

(A) Income taxes; or

(B) Franchise taxes imposed by this chapter.

(4) *Losses.* — (A) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(i) If incurred in a trade or business; or

(ii) If incurred in any transaction entered into for the production or collection of income subject to tax under this chapter, or for the management, conservation, or maintenance of property held for the production of income subject to tax under this chapter, though not connected with any trade or business; or

(iii) Of property not connected with a trade or business, if the losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(B) [Deleted].

(5) *Bad debts.* — Debts ascertained to be worthless and determined as deductible under § 166 and related sections of the Internal Revenue Code of 1986.

(6) *Insurance premiums.* — All fire, tornado, and casualty insurance premiums paid during the taxable year in connection with property held for investment or used in a trade or business, the income from which is taxable under this chapter.

(7) *Depreciation.* — A reasonable allowance for exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for

obsolescence; and including in the case of natural resources allowances for depletion as permitted by reasonable rules and regulations which the Mayor is hereby authorized to promulgate. The basis upon which such allowances are to be computed is the basis provided for in § 47-1811.4.

(8) *Charitable contributions.* — Contributions or gifts, actually paid within the taxable year to or for the use of the District of Columbia, but only if the contribution or gift is made exclusively for public purposes, or any religious, charitable, scientific, literary, military, or educational institution, and no part of the net income of which inures to the benefit of any private shareholder or individual; provided, however, that such deductions shall be allowed only in an amount which in the aggregate of all such deductions does not exceed 15% of the adjusted gross income. For purposes of this section, the term “actually paid”, when used with reference to the District of Columbia, includes compensation waived under § 1-612.15.

(9) *Contributions of an employer to an employees’ trust or annuity plan and compensation under a deferred-payment plan.* — In the return of an employer, contributions made by such employer to an employees’ trust or annuity plan and compensation under a deferred-payment plan to the extent that deductions for the same are allowed the taxpayer under the provisions of § 404 of the Internal Revenue Code of 1986 (§ 404 of Title 26, United States Code).

(10) *Allocation of deductions.* — In the case of corporations, financial institutions and unincorporated businesses, the deductions provided for in this section shall be allowed only for and to the extent that they are connected with income arising from sources within the District within the meaning of §§ 47-1810.1 to 47-1810.3; and the proper apportionment and allocation of the deductions to be allowed shall be determined by the Mayor under formula or formulas provided for in § 47-1810.2.

(11) *Reasonable allowance for salaries.* — A reasonable allowance for salaries or other compensation for personal services actually rendered, except:

(A) No allowance shall be made for salaries or wages in an amount equal to the amount of the credit allowed under §§ 47-1808.4 and 47-1808.7; and

(B) In the case of an unincorporated business subject to the tax imposed by subchapter VIII of this chapter, the aggregate deduction for services rendered by individual owners or members actively engaged in the conduct of the unincorporated business shall not exceed 30% of the net income of the business, computed without the benefit of this deduction.

(12) *Regulated investment companies.* — In the case of a regulated investment company as defined in § 851 of the Internal Revenue Code of 1986, which meets the requirements of § 852(a) of the Internal Revenue Code of 1986:

(A) The dividends paid by the regulated investment company which qualify for the dividends-paid deduction under § 852(b)(2)(D) and 852(b)(3)(A)(ii) of the Internal Revenue Code of 1986, including dividends considered as having been paid during the taxable year by reason of § 855 of the Internal Revenue Code of 1986; and

(B) Such amount as the regulated investment company shall designate for purposes of § 852(b)(3)(D)(ii) of the Internal Revenue Code of 1986 as undistributed long-term capital gains to be included in computing the long-term capital gains of the shareholder. Such amounts shall be included as gains from the sale or exchange of capital assets, as defined in this chapter, in computing such shareholder's taxable income as defined in § 47-1806.1.

(13) Real estate investment trusts. In the case of a real estate investment trust as defined in § 856 of the Internal Revenue Code of 1986, which meets the requirements of § 857(a) of the Internal Revenue Code of 1986, the dividends paid by the real estate investment trust which qualify for the dividends-paid deduction under § 857(b)(2)(C) and § 857(b)(3)(A)(ii) of the Internal Revenue Code of 1986, including dividends considered as having been paid during the taxable year by reason of § 858 of the Internal Revenue Code of 1986.

(14) *Net operating losses.* — In computing the net income of a corporation, an unincorporated business, or a financial institution, there shall be allowed a deduction for net operating losses, in the same manner as allowed under § 172 of the Internal Revenue Code of 1986 and as reported on any federal tax return for the same taxable period, except that no net operating losses may be carried back to any year ending before January 1, 1988.

(15) *Health insurance premiums.* — All health insurance premium expenditures for domestic partners and family members of employees if offered to all of its full-time employees who are District of Columbia residents.

(16) *Subpart F income.* — In computing the taxable income of a corporation, an unincorporated business, or a financial institution, there shall be allowed a deduction for Subpart F income as defined in § 47-1801.4(33) for taxable years beginning after December 31, 1994.

(17) Notwithstanding paragraph (10) of this subsection and § 47-1810.1(a)(2), in computing the net income of a corporation, there shall be allowed a deduction for all dividends received on or after March 1, 1997, from a wholly-owned subsidiary.

(b) *Deductions allowed — Generally.* — In the case of an individual, estate, or trust, deductions allowed under this section shall be the same as the deductions allowed by the Internal Revenue Code of 1986 on federal individual or fiduciary income tax returns; provided, however, that no deduction may be allowed for the following:

- (1) Income taxes;
- (2) Franchise taxes imposed by this chapter;
- (3) Carryovers of charitable contributions made prior to January 1, 1982, and included as deductions for federal income tax purposes;
- (4) [Repealed].
- (5) Any deduction passing to a stockholder in a small business corporation as defined in § 1371 of the Internal Revenue Code of 1954, making an election under § 1372(a) of the Internal Revenue Code of 1954, or an S Corporation as defined in § 1361(a) and (b) of the Internal Revenue Code of 1986, making an election under § 1362(a) of the Internal Revenue Code of 1986, which is otherwise deductible under the provisions of subsection (a) of this section and

which was allowable in determining the taxable income of the small business corporation or S Corporation subject to tax under the provisions of subchapter VII of this chapter.

(c) *Standard deduction.* — Every individual who claims the standard deduction on his or her federal income tax return shall claim the applicable standard deduction specified in § 47-1801.4(26). Every individual who itemizes deductions on his or her federal income tax return shall itemize the deductions permissible under this chapter. If a husband and wife file separate returns, the applicable standard deduction shall be allowed to neither if the net income of one of the spouses is determined by itemizing deductions.

(d) *Deductions not allowed.* — In computing net income, no deductions shall be allowed in any case for:

- (1) Personal, living, or family expenses;
- (2) Any amount paid out for new buildings or for permanent improvements or betterments, made to increase the value of any property or estate;
- (3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) Premiums paid on any life insurance policy covering the life of any officer or employee or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under such policy;

(5) If the net income of an unincorporated business for the taxable year is in excess of the exemption provided in § 47-1808.4, no deduction which is allowed or allowable under subsection (a) of this section from the gross income of any unincorporated business subject to the tax imposed by §§ 47-1808.1 to 47-1808.6 shall be allowed as deduction in the return and computation of the net income of any person entitled to share in the net income of such unincorporated business; and

(6)(A) Expenses incurred to produce income which is either exempt or not subject to taxation under this act.

(B) Notwithstanding subparagraph (A) of this paragraph, for the period beginning January 23, 1983, through September 30, 1984, expenses incurred to produce interest and dividend income on obligations or securities of the United States, or its agencies or instrumentalities, may be treated as expenses incurred to produce taxable income.

(e) *Lower income rental housing depreciation deduction.* An investor in a shared equity financing agreement may qualify for a depreciation deduction as provided in § 47-3507. (July 16, 1947, 61 Stat. 337, ch. 258, art. I, title III, § 3; May 27, 1949, 63 Stat. 130, ch. 146, title IV, §§ 404-409; Mar. 31, 1956, 70 Stat. 69, ch. 154, §§ 3, 4; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 4; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 601(b)(3), (4); Aug. 28, 1970, 84 Stat. 834, Pub. L. 91-391, § 1; Jan. 5, 1971, 84 Stat. 1933, Pub. L. 91-650, title II, §§ 204, 205(a); 1973 Ed., § 47-1557b; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(5), (6), 22 DCR 2107; Nov. 1, 1975, D.C. Law 1-31, § 2, 22 DCR 2547; Feb. 3, 1976, D.C. Law 1-44, §§ 2, 3, 23 DCR 4055; June 15, 1976, D.C. Law 1-70, title XI, § 1101, 23 DCR 562; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(b), 23 DCR 8749; Sept. 23, 1977, D.C. Law 2-19, § 2, 24 DCR 3338; Mar.

6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 501, 27 DCR 3390; Sept. 13, 1980, D.C. Law 3-95, § 103(b)-(d), 27 DCR 3509; June 11, 1981, D.C. Law 4-7, § 3, 28 DCR 1672; June 11, 1982, D.C. Law 4-118, § 104, 29 DCR 1770; July 24, 1982, D.C. Law 4-131, § 108(a), (b), 29 DCR 2418; Oct. 8, 1983, D.C. Law 5-31, § 10(f), 30 DCR 3879; Oct. 8, 1983, D.C. Law 5-32, § 3(c), 30 DCR 4013; July 24, 1986, D.C. Law 6-129, § 2(b), 33 DCR 3221; June 24, 1987, D.C. Law 7-9, § 2(f), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, §§ (2)(c)(5)-(17), 4, 34 DCR 5097; Apr. 30, 1988, D.C. Law 7-104, § 39(a)-(c), 35 DCR 147; July 8, 1988, D.C. Law 7-130, § 2(b), 35 DCR 4104; Sept. 21, 1988, D.C. Law 7-141, § 2(b), 35 DCR 5398; Sept. 21, 1988, D.C. Law 7-145, § 2(b), 35 DCR 5407; Oct. 20, 1988, D.C. Law 7-177, § 10(a), 35 DCR 6158; July 26, 1989, D.C. Law 8-17, § 2(b), 36 DCR 4160; June 11, 1992, D.C. Law 9-114, § 11, 39 DCR 2861; June 14, 1994, D.C. Law 10-128, § 103(b), 41 DCR 2096; Apr. 12, 1997, D.C. Law 11-257, § 5, 44 DCR 1247; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to definition of unincorporated business for tax purposes, see § 47-1808.1.

Section references. — This section is referred to in §§ 1-1472, 47-1809.8, 47-1811.4, and 47-1812.11.

Effect of amendments. — D.C. Law 11-257 added (a)(17).

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-31. — Law 1-31, the "District of Columbia Unincorporated Business Franchise Tax Revision Act of 1975," was introduced in Council and assigned Bill No. 1-169, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 22, 1975 and August 5, 1975, respectively. Signed by the Mayor on August 13, 1975, it was assigned Act No. 1-43 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-44. — Law 1-44, the "Amended Unincorporated Business Franchise Tax Revision Act of 1975," was introduced in Council and assigned Bill No. 1-188, which was referred to the Committee on Housing and Urban Development. The Bill was adopted on first and second readings on October 7, 1975 and October 21, 1975, respectively. Signed by the Mayor on November 5, 1975, it was assigned Act No. 1-62 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-70. — Law 1-70, the "Revenue Act of 1976," was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act

No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-124. — See note to § 47-1803.2.

Legislative history of Law 2-19. — Law 2-19, the "Act to Provide Deductions for Deed Recordation Taxes and Motor Vehicle Fees and for Accelerated Payment of Taxes, Insurance Premium Receipts," was introduced in Council and assigned Bill No. 2-109, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 17, 1977 and May 31, 1977, respectively. Signed by the Mayor on June 21, 1977, it was assigned Act No. 2-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-7. — Law 4-7, the "District of Columbia Government Comprehensive Merit Personnel Act Compensation Setting Grievance and Adverse Action Reform, and Tax Waiver Amendments of 1981," was introduced in Council and assigned Bill No. 4-38, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 10, 1981 and March 24, 1981, respectively. Signed by the Mayor on April 9, 1981, it was assigned Act No.

4-18 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 5-31. — Law 5-31, the “Lower Income Homeownership Tax Abatement and Incentives Act of 1983,” was introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Legislative history of Law 6-129. — See note to § 47-1803.2.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-104. — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-130. — See note to § 47-1803.2.

Legislative history of Law 7-141. — See note to § 47-1801.4.

Legislative history of Law 7-145. — See note to § 47-1803.2.

Legislative history of Law 7-177. — Law 7-177, the “Economic Development Zone Incentives Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-208, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on August 2, 1988, it was assigned Act No. 7-237 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — See note to § 47-1803.2.

Legislative history of Law 9-114. — Law 9-114, the “Health Care Benefits Expansion Act of 1992,” was introduced in Council and assigned Bill No. 9-162, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 15, 1992, it was assigned Act No. 9-188 and trans-

mitted to both Houses of Congress for its review. D.C. Law 9-114 became effective on June 11, 1992.

Legislative history of Law 10-128. — See note to § 47-1801.4.

Legislative history of Law 11-257. — Law 11-257, the “Recorder of Deeds Recordation Surcharge Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-670, which was referred to the Committee of the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-512 and transmitted to both Houses of Congress for its review. D.C. Law 11-257 became effective April 12, 1997.

References in text. — Section 163 of the Internal Revenue Code of 1986, referred to in (a)(2), is codified as 26 U.S.C. § 163.

Section 164 of the Internal Revenue Code of 1986, referred to in (a)(3), is codified as 26 U.S.C. § 164.

Section 166 of the Internal Revenue Code of 1986, referred to in (a)(5), is codified as 26 U.S.C. § 166.

Sections 851, 852 and 855 of the Internal Revenue Code of 1954, referred to throughout paragraph (12) of subsection (a) of this section, are classified to 26 U.S.C. §§ 851, 852 and 855.

26 U.S.C. § 852(b)(3)(A), referred to in subsection (a)(12), was amended by P.L. 94-455, § 1901(b)(33)(J)(i) and thereafter did not contain a subparagraph (ii).

Sections 856, 857 and 858 of the Internal Revenue Code of 1954, referred to throughout paragraph (13) of subsection (a) of this section, are classified to 26 U.S.C. §§ 856, 857 and 858.

The reference in subsection (a)(13) of this section to § 857 (b)(2)(C) of the Internal Revenue Code of 1986 should probably be to § 857 (b)(2)(B) of the Internal Revenue Code of 1986.

Section 172 of the Internal Revenue Code of 1986, referred to in (a)(14), is codified as 26 U.S.C. § 172.

Sections 1371 and 1372(a) of the Internal Revenue Code of 1954, referred to in (b)(5), are codified as 26 U.S.C. §§ 1371 and 1372(a).

Sections 1361(a) and (b) and 1362(a) of the Internal Revenue Code of 1986, referred to in (b)(5), are codified as 26 U.S.C. §§ 1361(a) and (b) and 1362(a).

“This act,” referred to in subsection (d)(6)(A), is 61 Stat. 331.

Mayor authorized to issue regulations.

— Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Mayor authorized to issue rules. — Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

Taxpayer not entitled to loss from intentional destruction of building. — Where it is the absolute intention of a taxpayer at the time it acquires property to raze the existing dwelling thereon, he is not entitled to claim a loss from the destruction of the building. *Reliable Home Appliances, Inc. v. District of Columbia*, App. D.C., 219 A.2d 501 (1966).

Losses outside taxpayer's taxable year. — A taxpayer may not deduct even a proportional amount of a loss he claims if he does not sustain any part of the loss during his taxable year (defined to include a fractional part of a year), i.e., within the period when he resided in the District. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

If a taxpayer no longer resided in the District of Columbia after August 15, it follows that his taxable year ended on August 15, and that he had neither the duty nor the right to report income received or losses incurred thereafter. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

Assets demand independent tax treatment, perhaps differing treatment, according to whether they belong to a corporation, ongoing or dissolved, or to its shareholders. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Damages resulting from transfer of baseball club's operations constitute "capital investment." — The damages paid by a major league baseball club to a minor league and to the owners of the minor league clubs, resulting from transfer of the major league club's operation to the minor league city, constitute a "capital investment." *Washington Am. League Base Ball Club, Inc. v. District of Columbia*, 349 F.2d 179 (D.C. Cir. 1965).

Ordinarily, brokerage fees must be cap-

italized. *Borden v. District of Columbia*, App. D.C., 417 A.2d 402 (1980).

Liquidating shares held for few days not capital assets. — Liquidating shares which are distributed to shareholders and held by them for a few days before a sale to others are not a capital asset. *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

Congressional intent is to permit allowance for depreciation based on declining balance method. *Broadcasting Publications, Inc. v. District of Columbia*, 313 F.2d 554 (D.C. Cir. 1962).

Depreciation basis should allow taxpayer to recover investment. — The definition of basis for reasonable depreciation allowances should enable the taxpayer to recover his investment in the asset. *Lenkin v. District of Columbia*, 461 F.2d 1215 (D.C. Cir. 1972).

And corporation's distributees may include corporation's unsecured debts. — The distributees on a complete liquidation of a corporation may include in their depreciation basis their proportionate part of the corporation's unpaid unsecured debts, whether or not they make themselves personally liable for those debts. *Lenkin v. District of Columbia*, 461 F.2d 1215 (D.C. Cir. 1972).

Cited in *Bord v. District of Columbia*, 344 F.2d 560 (D.C. Cir. 1965); *Snow v. District of Columbia*, 361 F.2d 523 (D.C. Cir. 1965); *Oppenheimer v. District of Columbia*, 363 F.2d 708 (D.C. Cir. 1966); *Blanchard v. District of Columbia*, App. D.C., 420 A.2d 1373 (1980); *District of Columbia v. Pierce Assocs.*, App. D.C., 462 A.2d 1129 (1983); *Automatic Enters., Inc. v. District of Columbia*, App. D.C., 465 A.2d 388 (1983); *Schlink v. Williams*, App. D.C., 572 A.2d 101, cert. denied, 498 U.S. 938, 111 S. Ct. 341, 112 L. Ed. 2d 305 (1990).

Subchapter IV. Accounting Periods, Installment Sales, and Inventories.

§ 47-1804.1. Accounting periods — Computation of income.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Mayor does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in § 47-1801.4(8) or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. If the taxpayer

makes a federal income tax return, his income shall be computed, for the purposes of this subchapter, on the basis of the same calendar or fiscal year as in such federal income tax return, if the basis is accepted and approved by the Commissioner of Internal Revenue. (July 16, 1947, 61 Stat. 339, ch. 258, art. I, title IV, § 1; 1973 Ed., § 47-1561; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1804.2.

Legislative history of Law 2-158. — See note to § 47-1801.4.

In order for partner to claim partnership loss deduction on partner's fractional year income tax return for the District of Columbia, the partnership's taxable year, or other formally recognized accounting period

during which all partner's distributive shares are commonly computed, must close with or within the partner's fractional tax year. *Ward v. District of Columbia*, 111 WLR 373 (Super. Ct. 1983).

Cited in *Automatic Enters., Inc. v. District of Columbia*, App. D.C., 465 A.2d 388 (1983); *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

§ 47-1804.2. Same — Period in which items of gross income included.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer unless, under methods of accounting permitted under § 47-1804.1, any such amounts are to be properly accounted for as of a different period. In the case of death of a taxpayer on the cash basis, no amount will be accrued on his final return; and on the accrual basis, amounts (except amounts includible in computing a partner's net income) accrued only by reason of the death of the taxpayer shall not be included in computing net income for the period in which falls the date of the taxpayer's death, but such amounts shall be included in the income of the person receiving such amounts by inheritance or survivorship from the decedent. (July 16, 1947, 61 Stat. 339, ch. 258, art. I, title IV, § 2; 1973 Ed., § 47-1561a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

A taxpayer, whose income is calculated for a period different from that of a partnership, is obliged to include in his calculation his distributive share of the net income of the partnership for any accounting period of the

partnership ending within his own taxable year, but cannot properly include his distributive share from an accounting period not ending within that year. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

§ 47-1804.3. Same — Period for which deductions and credits taken.

The deductions and credits provided for in this chapter shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed unless, in order to clearly reflect the income, the deductions or credits should be taken as of a different period. In the case of death of a taxpayer on the cash basis, no amount will be allowed as a deduction which was accrued up to the date of the taxpayer's death; and on the accrual basis, no amount (except amounts includible in computing a partner's net income) accrued only by reason of the death of the taxpayer shall be included in computing net income

for the period in which falls the date of the taxpayer's death but such amounts shall be deductible by the estate or other person who paid them or is liable for their payment. (July 16, 1947, 61 Stat. 340, ch. 258, art. I, title IV, § 3; 1973 Ed., § 47-1561b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

A taxpayer, whose income is calculated for a period different from that of a partnership, is obliged to include in his calculation his distributive share of the net income of the partnership for any accounting period of the partnership ending within his own taxable year, but cannot properly include his distributive share from an accounting period not ending within that year. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

Loss deemed not received within taxable year. — Where taxpayer had no legal right to demand an earlier accounting, and hence no right to a distribution of the loss during the time his income was subject to District taxation, he did not receive his loss within his taxable year. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

§ 47-1804.4. Income from installment sales.

If a person reports any portion of his income from installment sales for federal income tax purposes under § 453 of the Internal Revenue Code of 1986 (§ 453 of Title 26, United States Code) and as the same may hereafter be amended and if such income is subject to tax under this chapter, he may report such income under this chapter in the same manner and upon the same basis as the same was reported by him for federal income tax purposes, if such method of reporting is accepted and approved by the Commissioner of Internal Revenue. (July 16, 1947, 61 Stat. 340, ch. 258, art. I, title IV, § 4; May 27, 1949, 63 Stat. 131, ch. 146, title IV, § 410; 1973 Ed., § 47-1561c; June 24, 1987, D.C. Law 7-9, § 2(g), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(d), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Cited in *May Dep't Stores Co. v. District of Columbia*, 364 F.2d 689 (D.C. Cir. 1966).

§ 47-1804.5. Inventories.

Whenever in the opinion of the Mayor the use of inventories is necessary in order to properly determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Mayor may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income. (July 16, 1947, 61 Stat. 340, ch. 258, art. I, title IV, § 5; 1973 Ed., § 47-1561d; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1804.6. Authority to reject returns.

Notwithstanding any other provisions of this chapter, the Mayor is hereby authorized to reject any return of income reported on a cash basis where, in his

opinion, the net income of the taxpayer is not properly reflected and cannot be determined on such basis, and to require the return to be filed on such a basis as in his opinion will properly reflect the net income of the taxpayer. (July 16, 1947, 61 Stat. 340, ch. 258, art. I, title IV, § 6; 1973 Ed., § 47-1561e; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See *Cited in Automatic Enters., Inc. v. District of Columbia*, App. D.C., 465 A.2d 388 (1983).
note to § 47-1801.4.

§ 47-1804.7. Amount.

(a) Fractional parts of dollar. With respect to any amount required to be shown on a return, document or statement filed under this chapter, if such amount is other than a whole-dollar amount, either the fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of the dollar) shall be increased by \$1.

(b) Election not to use whole-dollar amounts. Any person making a return, statement or other document shall be allowed to make such return, statement or document without regard to subsection (a) of this section.

(c) Inapplicability to computation. The provisions of subsections (a) and (b) of this section shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a return, document or statement filed under this chapter, but shall be applicable only to such final amount. (July 16, 1947, 61 Stat. 339, § 7, as added June 11, 1982, D.C. Law 4-118, § 105, 29 DCR 1770; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-118. — See
note to § 47-1801.1a.

Subchapter V. Returns.

§ 47-1805.1. Returns — Forms.

(a) *Forms.* — The Mayor is hereby authorized and directed to prescribe the forms of returns. All returns required under this subchapter shall be filed on the forms and in the manner prescribed by the Mayor.

(b) *Duty of Mayor; obligation of taxpayer.* — Blank forms of returns of income shall be supplied by the Mayor. It shall be the duty of the Mayor to obtain an income tax return from every taxpayer who is liable under this chapter to file such return; but this duty shall in no manner diminish the obligation of the taxpayer to file a return without being called upon to do so.

(c) *Information returns.* — Every person subject to the jurisdiction of the District in whatever capacity acting, including receivers or mortgagors of real or personal property, fiduciaries, partnerships, and employers making payment of dividends, interest, rent, premiums, annuities, compensations, remunerations, emoluments, or other income to any person subject to tax under this

chapter, shall render such returns thereof to the Mayor as he may by rule prescribe.

(d) [*Certificates of nonresidence.* — Repealed].

(e) *Requirement to file joint federal returns.* — Whenever a taxpayer is required by the Internal Revenue Code of 1986 to file a joint income tax return with his or her spouse in order to qualify for a tax benefit under the Internal Revenue Code of 1986, the taxpayer and spouse shall file either a joint return or separate returns on a combined individual form prescribed by the Mayor in order to qualify for a similar benefit afforded under this chapter. (July 16, 1947, 61 Stat. 340, ch. 258, art. I, title V, § 1; 1973 Ed., § 47-1564; June 15, 1976, D.C. Law 1-70, title XI, § 1102, 23 DCR 563; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; June 11, 1982, D.C. Law 4-118, § 119, 29 DCR 1770; Oct. 8, 1983, D.C. Law 5-32, § 4, 30 DCR 4013; June 24, 1987, D.C. Law 7-9, § 2(h), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(e)(1), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1805.3 and 47-1805.4.

Legislative history of Law 1-70. — See note to § 47-1803.3.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Mayor authorized to issue regulations. — Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provision of the act.

§ 47-1805.2. Same — Persons required to file.

Each of the following persons shall file a return with the Mayor stating specifically the items of his gross income and the items claimed as deductions and credits allowed under this chapter, and such other information for the purpose of carrying out the provisions of this chapter as the Mayor may require:

(1) *Residents and nonresidents.* — Every nonresident of the District receiving income subject to tax pursuant to this chapter and every resident of the District, except a fiduciary, who is required to file a federal return under the provisions of § 6012 of the Internal Revenue Code of 1986.

(2) *Fiduciaries.* — (A) Every individual, if single, or if married and not living with spouse, for whom he or she acts, having met the filing requirements of § 6012 of the Internal Revenue Code of 1986;

(B) Every individual, if married and living with spouse, for whom he or she acts, having met the filing requirements of § 6012 of the Internal Revenue Code of 1986, except that if the fiduciary elects to file a separate return, the provisions of § 6012 of the Internal Revenue Code of 1986, relating to filing requirements for separate returns, shall be followed;

(C) Every estate for which he or she acts, the gross income of which for the taxable year is in excess of its personal exemption of \$885 for taxable years beginning after December 31, 1986, \$1,025 for taxable years beginning after December 31, 1987, \$1,160 for taxable years beginning after December 31,

1988, \$1,270 for taxable years beginning after December 31, 1989, and \$1,370 for taxable years beginning after December 31, 1990; and

(D) Every trust for which he or she acts, the gross income of which for the taxable year is \$100 or over.

(3) *Joint fiduciaries.* — A return by one of 2 or more joint fiduciaries filed with the Mayor shall be sufficient compliance with the provisions of subsection (b) of this section.

(4) If any resident or nonresident or any fiduciary is unable to make his own return, the return shall be made by his duly authorized agent.

(5) *Corporations and financial institutions.* — (A) Every corporation or financial institution engaging in or carrying on any trade or business within the District or receiving income from sources within the District within the meaning of §§ 47-1810.1 to 47-1810.3, even if the business or source income is exempt under other provisions of this chapter.

(B) Affiliated corporations (including affiliated incorporated financial institutions) shall file separate returns unless permitted by the Mayor to file consolidated returns.

(6) *Unincorporated businesses.* — Every unincorporated business engaging in or carrying on any trade or business within the District or receiving income from sources within the District within the meaning of §§ 47-1810.1 to 47-1810.3 and having a gross income of more than \$12,000, regardless of whether it has a net income. The return shall be made by the taxpayer or taxpayers liable for the payment of the tax.

(7) *Partnerships.* — Every partnership, other than partnerships subject to the taxes imposed by §§ 47-1808.1 to 47-1808.6 on unincorporated businesses, engaged in any trade or business, or receiving income from sources within the District. There shall be included in such return the names and addresses of the individuals who would be entitled to share in the net income of the partnership, if distributed, and the amount of distributive share of each individual.

(8) *Registration.* — No person shall engage in or continue to engage in a trade, business or profession subject to taxes under the provisions of this chapter without first registering to do so. Such registration shall be made in such manner and on such forms as the Mayor shall prescribe and registration shall not be transferable. Whoever engages in a trade, business or profession which is subject to tax under the provisions of this chapter without first registering to do so, as required by this section, shall, upon conviction thereof be fined not more than \$500. Such failure to register shall also be subject to a civil penalty of \$50 a day for each day that such failure continues. (July 16, 1947, 61 Stat. 341, ch. 258, art. I, title V, § 2; May 27, 1949, 63 Stat. 131, ch. 146, title IV, § 411; Mar. 31, 1956, 70 Stat. 69, ch. 154, § 5; 1973 Ed., § 47-1564a; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(7), 22 DCR 2107; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(c), 23 DCR 8749; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 104, 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 106, 29 DCR 1770; Sept. 17, 1982, D.C. Law 4-150, § 103, 29 DCR 3377; Oct. 1, 1987, D.C. Law 7-29, § 2(e)(2), (3), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(c), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to levy and rates of tax on corporations, see § 47-1807.2.

As to levy and rates of tax on unincorporated businesses, see § 47-1808.3.

Section references. — This section is referred to in § 47-1805.3.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-124. — See note to § 47-1803.2.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-150. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-141. — See note to § 47-1801.4.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Domicile is a prerequisite to tax liability. District of Columbia v. Davis, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

Cited in District of Columbia v. Terris, App. D.C., 604 A.2d 5 (1992).

§ 47-1805.3. Same — Filing.

(a) *Time and place.* — All returns of income for the preceding taxable year required to be filed under the provisions of § 47-1805.1 shall be filed with the Mayor on or before the 15th day of April of each year, except that such returns, if made on the basis of a fiscal year, shall be filed on or before the 15th day of the 4th month following the close of such fiscal year; provided, however, that any return required to be filed, for the preceding year under the provisions of subchapter VII of this chapter shall be filed on or before the 15th day of March in each year, except that such returns, if made on the basis of a fiscal year, shall be filed on or before the 15th day of the 3rd month following the close of such fiscal year.

(b) *Extension of time.* — The Mayor may grant a reasonable extension of time for filing the returns required by § 47-1805.2 whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. Except in case of a taxpayer who is not within the continental limits of the United States, no such extension shall be granted for more than 6 months, and in no case shall such extension be granted for more than 1 year. (July 16, 1947, 61 Stat. 342, ch. 258, art. I, title V, § 3; 1973 Ed., § 47-1564b; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; June 11, 1982, D.C. Law 4-118, § 107, 29 DCR 1770; Oct. 8, 1983, D.C. Law 5-32, § 5, 30 DCR 4013; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to the definition of “taxable income” applicable to tax on corporations, see § 47-1807.1.

Section references. — This section is referred to in §§ 47-1812.7 and 47-1812.14.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Mayor authorized to issue regulations. — Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provision of the act.

§ 47-1805.4. Same — Divulgence of information.

(a) *Information not to be disclosed.* — Except to any official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer

or employee, or any former officer or employee, of the District to divulge or make known in any manner the amount of income or any particulars relating thereto or the computation thereof set forth or disclosed in any return required to be filed under § 47-1805.1 or information pertaining to the interception of any tax refund pursuant to the provisions of the Project Setoff Liability Act of 1982, and neither the original nor a copy of any such return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of such litigation, whether or not the request is contained in an order of the court; provided, however, that nothing herein contained shall be construed to prevent the furnishing to a taxpayer of a copy of his return upon the payment of a fee of \$3.50. The provisions of this subsection shall also be applicable to any federal, state, or local income tax returns or copies thereof and to any other federal, state, or local income tax information either submitted by the taxpayer or otherwise obtained; provided, further, that nothing in this section shall be construed to prevent public inspection of the application and its related financial documents of an organization that has been granted exemption from taxation under this chapter. Any inspection permitted under this subsection shall be made at such time and in such manner as the Mayor may prescribe.

(b) *Reciprocal exchange with the United States and the several states.* — Notwithstanding the provisions of this section, the Mayor may permit the proper officer of the United States or of any state imposing an income tax or his authorized representative to inspect income tax returns filed with the Mayor or may furnish to such officer or representative a copy of any such income tax returns provided the United States or such state grant substantially similar privileges to the Mayor or his representative or to the proper officer of the District charged with the administration of this subchapter. The Internal Revenue Service of the Treasury Department of the United States is authorized and required to supply such information as may be requested by the Mayor relative to any person subject to the taxes imposed by this chapter.

(c) *Publication of statistics and delinquent lists.* — Nothing contained in subsection (a) of this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and the items thereof, or the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which in the opinion of the Mayor may assist in the collection of such delinquent taxes.

(d) *Information which may be disclosed.* — Nothing contained in subsection (a) of this section shall be construed to prohibit the Mayor, in his discretion, from divulging or making known any information contained in, or relating to, any report, application, license, or return required under the provisions of this chapter other than such information as may be contained therein relating to the amount of income or any particulars relating thereto or the computation thereof.

(e) *Violations.* — Any violation of the provisions of this section shall be a misdemeanor and shall be punishable by a fine not exceeding \$1,000, by imprisonment for not more than 1 year, or both, in the discretion of the court.

All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia or any of his assistants in the name of the District of Columbia.

(f) *Preservation of reports, applications, and returns.* — All reports, applications, and returns received by the Mayor under the provisions of this chapter shall be preserved for 6 years, and thereafter until the Mayor orders them to be destroyed.

(g) *Disclosure to contractor.* — Notwithstanding the provisions of subsection (a) of this section, any tax returns or other tax information required by this chapter may be disclosed to a contractor to the extent necessary to provide for the processing, storage, transmission, or reproduction of such returns and information or for the programing, maintenance, repair, testing, and procurement of equipment for purposes of tax administration. The provisions of subsections (a) and (e) of this section shall be applicable to all such contractors and former contractors and to their officers and employees and former officers and employees.

(h) *Disclosure to state agency requesting offset.* — Notwithstanding the provisions of this section, the social security account number and the home address of a taxpayer whose tax refund has been intercepted under § 47-1812.11 and this section, shall be disclosed upon the request of the state agency requesting the offset and of the District of Columbia agency under Part D in Subchapter IV of the Social Security Act (42 U.S.C. § 651 et seq.). (July 16, 1947, 61 Stat. 342, ch. 258, art. I, title V, § 4; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1564c; Mar. 16, 1978, D.C. Law 2-57, § 3, 24 DCR 5426; Mar. 6, 1979, D.C. Law 2-158, §§ 2, 4, 25 DCR 7002; June 11, 1982, D.C. Law 4-118, § 108, 29 DCR 1770; Sept. 18, 1982, D.C. Law 4-154, § 3, 29 DCR 3486; Feb. 24, 1987, D.C. Law 6-166, § 33(g)(2), 33 DCR 6710; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-820.1, 47-821 and 47-1812.8.

Legislative history of Law 2-57. — See note to § 47-405.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-154. — See note to § 47-1812.11.

Legislative history of Law 6-166. — Law 6-166 was introduced in Council and assigned Bill No. 6-134, which was referred to the Committee on Human Services and reassigned to the Committee on the Judiciary. The Bill was

adopted on first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-212 and transmitted to both Houses of Congress for its review.

References in text. — The Bureau of Internal Revenue, originally referred to in the second sentence in subsection (b) of this section, was replaced by the Internal Revenue Service pursuant to Treasury Department Order 150-29.

The "Project Setoff Liability Act of 1982," referred to in the first sentence of subsection (a) of this section, is D.C. Law 4-154, codified as this section and § 47-1812.11.

*Subchapter VI. Tax on Residents and Nonresidents.***§ 47-1806.1. Tax on residents and nonresidents — “Taxable income” defined.**

For the purposes of this chapter, and unless otherwise required by the context, the term “taxable income” mean the entire net income of every resident, in excess of the personal exemptions and credits for dependents allowed by § 47-1806.2 and that portion of the entire net income of every nonresident which is subject to tax under §§ 47-1808.1 to 47-1808.6. (July 16, 1947, 61 Stat. 343, ch. 258, art. I, title VI, § 1; 1973 Ed., § 47-1567; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1803.3, 47-1808.6, and 47-1809.3.

Domicile is a prerequisite to tax liability. District of Columbia v. Davis, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

Income tax liability predicated solely on taxpayer’s resident status. — The District of Columbia predicates individual income tax liability solely on the taxpayer’s resident status and not on the source of the income. District of Columbia v. Terris, App. D.C., 604 A.2d 5 (1992).

§ 47-1806.2. Same — Personal exemptions.

(a) In the case of a resident, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(b) An exemption shall be granted for the taxpayer and an additional exemption for the spouse of the taxpayer if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) There shall be allowed an additional exemption for a taxpayer who qualifies as a head of household.

(d) There shall be allowed an additional exemption for a taxpayer who is blind at the close of his or her taxable year, and an additional exemption for the spouse of the taxpayer if the spouse is blind at the close of the taxable year of the taxpayer and, if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer, except that if the spouse dies during such taxable year the determination regarding blindness shall be made as of the time of death.

(e) There shall be allowed an additional exemption for a taxpayer who has attained the age of 65 before the close of his or her taxable year, and an additional exemption for the spouse of the taxpayer if the spouse has attained the age of 65 before the close of his or her taxable year and, if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f)(1) There shall be allowed an additional exemption for each dependent:

(A) Whose gross income for the calendar year in which the year of the taxpayer begins is less than \$885 for the taxable years beginning after

December 31, 1986, less than \$1,025 for taxable years beginning after December 1, 1987, less than \$1,160 for taxable years beginning after December 31, 1988, less than \$1,270 for taxable years beginning after December 31, 1989, and less than \$1,370 for taxable years beginning after December 31, 1990; or

(B) Who is a child of the taxpayer and who:

(i) Has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins; or

(ii) Is a student.

(2) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his or her spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(3) For purposes of this subsection:

(A) The term "child" means a child as defined in § 151(c)(3) of the Internal Revenue Code of 1986; and

(B) The term "student" means a student as defined in § 151(c)(4) of the Internal Revenue Code of 1986.

(g) In the case of a return made for a fractional part of a taxable year, the personal exemptions shall be reduced to amounts that bear the same ratio to the full exemptions provided as the number of months in the period for which the return is made bear to 12 months.

(h) In the case of an individual for whom a deduction under this section is allowable to another taxpayer for a taxable year in which the taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to the individual for his or her taxable year shall be zero.

(i) For purposes of this section, the deduction for personal exemptions shall be as follows:

(1) For taxable years beginning after December 31, 1986, \$885;

(2) For taxable years beginning after December 31, 1987, \$1,025;

(3) For taxable years beginning after December 31, 1988, \$1,160;

(4) For taxable years beginning after December 31, 1989, \$1,270; and

(5) For taxable years beginning after December 31, 1990, \$1,370. (July 16, 1947, 61 Stat. 343, ch. 258, art. I, title VI, § 2; May 27, 1949, 63 Stat. 132, ch. 146, title IV, § 412; Mar. 31, 1956, 70 Stat. 70, ch. 154, § 6; Sept. 4, 1957, 71 Stat. 605, Pub. L. 85-281, § 2; 1973 Ed., § 47-1567a; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(8), 22 DCR 2109; Oct. 1, 1987, D.C. Law 7-29, § 2(f)(1), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1806.1, 47-1808.6, 47-1809.3, and 47-1809.5.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Domicile is a prerequisite to tax liability. *District of Columbia v. Davis*, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

§ 47-1806.3. Same — Imposition and rates.

(a)(1) In the case of a taxable year beginning after December 31, 1986, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$10,000	6% of the taxable income.
Over \$10,000 but not over \$20,000	\$600, plus 8% of the excess over \$10,000.
Over \$20,000	\$1,400, plus 10% of the excess over \$20,000.

(2) In the case of a taxable year beginning after December 31, 1987, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$10,000	6% of the taxable income.
Over \$10,000 but not over \$20,000	\$600, plus 8% of the excess over \$10,000.
Over \$20,000	\$1,400, plus 9.5% of the excess over \$20,000.

(b) In lieu of the method of computation provided for in subsection (a) of this section, individuals may elect to compute the tax in accordance with a tax table prescribed by the Mayor for such taxable year, subject to such rules and regulations as the Mayor may prescribe. The amount of tax to be paid under the tax table prescribed by the Mayor shall be consistent with the tax rates provided for in subsection (a) of this section.

(c) An individual not living with a husband or wife on the last day of the taxable year, for the purposes of this chapter, shall be considered as a single person.

(d) This section shall not apply to any return filed by a fiduciary for an estate or trust or to any married resident living with his or her spouse at any time during the taxable year where such spouse files a return and computes the tax thereon without regard to this section.

(e) If a husband and wife living together file separate returns, each shall be treated as a single person for the purposes of this section. (July 16, 1947, 61 Stat. 344, ch. 258, art. I, title VI, §§ 3, 4; May 27, 1949, 63 Stat. 132, ch. 146, title IV, § 413; May 18, 1954, 68 Stat. 117, ch. 218, title XII, § 1201; Mar. 31, 1956, 70 Stat. 70, ch. 154, §§ 7, 8; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 5; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 701; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 201; June 30, 1970, 84 Stat. 366, Pub. L. 91-297, title IV, § 401; 1973 Ed., § 47-1567b; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(9), 22 DCR 2110; June 15, 1976, D.C. Law 1-70, title XII, § 1201(a), 23 DCR 564; June 11, 1982, D.C. Law 4-118, § 109, 29 DCR 1770; Oct. 1, 1987, D.C. Law 7-29, § 2(f)(2), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 47-1808.6, 47-1809.3 and 47-1813.1.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-70. — See note to § 47-1803.3.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Domicile is a prerequisite to tax liability. District of Columbia v. Davis, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967); Alexander v. District of Columbia, App. D.C., 370 A.2d 1327 (1977).

Cited in Andrews v. District of Columbia, App. D.C., 443 A.2d 566, cert. denied, 459 U.S. 909, 103 S. Ct. 216, 74 L. Ed. 2d 172 (1982).

§ 47-1806.4. Same — Credits — In general.

(a) The amount of tax payable under this subchapter by a resident of the District in respect to the taxable year shall be reduced by a credit equal to the amount of individual income tax such individual is required to pay and, in fact, has paid to any state, territory or possession of the United States, or political subdivision thereof, upon income attributable to such state, territory or possession of the United States, or political subdivision thereof, for such taxable year or portion thereof while concurrently a resident of the District. The credit provided under this subsection shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the individual's adjusted gross income received by him, or accrued to him if on an accrual basis, subject to tax in the other jurisdiction bears to his entire adjusted gross income received by him, or accrued to him, while he was concurrently a resident of the District. The Mayor may require satisfactory proof of the payment of such income taxes to another jurisdiction. The credit provided by this subsection shall not be allowed against any tax imposed under §§ 47-1808.1 through 47-1808.6. Beginning with any taxable year after December 31, 1990, no franchise tax, license tax, excise tax, unincorporated business tax, occupation tax, or any tax characterized as such by the other taxing jurisdiction, even if applied to earned or business income, shall qualify as a credit under this section.

(b) The amount deducted and withheld as tax under this chapter during any calendar year upon the wages of any individual shall be allowed as a credit to the recipient of the income against the tax imposed by this chapter, for taxable years beginning in such calendar year. If more than 1 taxable year begins in such calendar year such amount shall be allowed as a credit against the tax for the last taxable year so beginning.

(c)(1) If a return is filed for a full calendar or fiscal year beginning after December 31, 1988, an individual who incurs household and dependent care services necessary to engage in gainful employment and who is allowed a credit under § 21 of the Internal Revenue Code of 1986, shall be allowed, against the tax imposed by this chapter for the taxable year, an amount equal to 32% of the credit allowed under § 21 of the Internal Revenue Code of 1986, regardless of the amount of the credit actually used to offset federal tax liability.

(2) If a return is filed for a period of less than a full calendar or fiscal year beginning after December 31, 1988, the credit allowed under this subsection

shall be the credit calculated according to the provisions of paragraph (1) of this subsection, multiplied times the ratio that the employment-related expenses, allowed under § 21 of the Internal Revenue Code of 1986 and incurred during the period of residency in the District, bear to the total employment-related expenses allowed under § 21 of the Internal Revenue Code of 1986, and incurred for the whole taxable year.

(3) In no event shall the credit allowed under paragraph (1) or (2) of this subsection exceed the amount of tax otherwise due without reference to this subsection.

(d) This section shall take effect in accordance with the provisions of § 1-233(c)(1) and shall apply to taxable years beginning after December 31, 1978.

(e)(1) The amount of tax payable under this subchapter by a resident of the District in respect to the taxable year shall be reduced by a low income credit designed to make the District's income tax threshold equal to the federal income tax threshold. For purposes of this subsection, the term "tax threshold" means the point at which a taxpayer begins to owe income tax after allowance of the standard deduction and all personal exemptions to which the taxpayer is entitled, but before application of any itemized deductions or credits. The credit shall be calculated in accordance with a table prescribed by the Mayor.

(2) The credit provided for in paragraph (1) of this subsection shall not be allowed to any resident who has a federal tax liability determined in accordance with § 55 of the Internal Revenue Code of 1986.

(3) In no event shall the credit allowed under paragraph (1) of this subsection exceed the amount of the tax otherwise due without reference to this section. (July 16, 1947, 61 Stat. 345, ch. 258, art. I, title VI, § 5; Mar. 31, 1956, 70 Stat. 71, ch. 154, § 9; 1973 Ed., § 47-1567d; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(d)(1), 23 DCR 8749; Mar. 3, 1979, D.C. Law 2-146, §§ 2, 3, 25 DCR 6987; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; June 11, 1982, D.C. Law 4-118, § 110, 29 DCR 1770; June 24, 1987, D.C. Law 7-9, § 2(i), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(f)(3)-(5), 34 DCR 5097; May 10, 1989, D.C. Law 7-231, § 50, 36 DCR 492; Sept. 20, 1989, D.C. Law 8-25, § 3, 36 DCR 4721; Mar. 23, 1995, D.C. Law 10-250, § 2, 42 DCR 518; Sept. 26, 1995, D.C. Law 11-52, § 114, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1808.6, 47-1809.3, and 47-1816.3.

Effect of amendments. — D.C. Law 11-52 added the last sentence in (a).

Emergency act amendments. — For temporary amendment of section, see § 114 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 117(a) of D.C. Act 11-124 provided for the application of the act.

Legislative history of Law 1-124. — See note to § 47-1803.2.

Legislative history of Law 2-146. — Law 2-146, the "District of Columbia Resident Tax Credit Act of 1978," was introduced in Council

and assigned Bill No. 2-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-323 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-231. — Law

7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-25. — See note to § 47-1801.4.

Legislative history of Law 10-250. — Law 10-250, the "D.C. Resident Tax Credit Temporary Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-832. The Bill was adopted on first and second readings on December 6, 1994, and January 3, 1995, respectively. Signed by the Mayor on January 18, 1995, it was assigned Act No. 10-397 and transmitted to both Houses of Congress for its review. D.C. Law 10-250 became effective on March 23, 1995.

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Domicile is a prerequisite to tax liability. *District of Columbia v. Davis*, 371 F.2d 964 (D.C. Cir.), cert. denied, 386 U.S. 1034, 87 S. Ct. 1487, 18 L. Ed. 2d 598 (1967).

Out-of-state business taxes. — Law partners could lawfully credit the amounts they paid in New York under the New York City Unincorporated Business Tax against their District of Columbia income taxes. *District of Columbia v. Califano*, App. D.C., 647 A.2d 761 (1994).

§ 47-1806.5. Same — Same — Campaign contributions.

Repealed. July 26, 1989, D.C. Law 8-17, § 2(c), 36 DCR 4160.

Legislative history of Law 8-17. — See note to § 47-1803.2.

§ 47-1806.6. Same — Same — Property taxes.

(a)(1) For purposes of providing relief to certain District of Columbia residents who own their principal place of residence and who reside in the same, an income tax credit shall be allowed to the eligible claimant equal to the amount by which all or a portion of real property taxes the taxpayer pays on his or her principal place of residence for the taxable year exceeds a percentage (as determined under paragraph (2) of this subsection) of his or her household gross income for that year. District of Columbia residents who rent their principal place of residence, who reside in the same and who are eligible claimants under the provisions of this section, shall be allowed an income tax credit equal to the amount by which rent paid constituting property taxes, deemed for the purposes of this subsection to be 15% of rent, on his or her principal place of residence for the taxable year, exceeds a percentage (as determined under paragraph (2) of this subsection) of his or her household gross income for that year and which exceeds the amount of any rental supplement payments, received by the claimant pursuant to the provisions of Title III of the Rental Housing Act of 1977, during that year. The credit shall not exceed a total of \$750.

(2) For taxable years beginning after December 31, 1977, the percentage required under paragraph (1) of this subsection to be determined for claimants other than elderly, blind, or disabled claimants shall be the percentage specified in the following table:

Regular Circuit Breaker

If household income is:	Tax credit equals:
\$0 — \$2,999	95% of property tax* exceeding 1.5% of household gross income
\$3,000 — \$4,999	75% of property tax* exceeding 2.0% of household gross income
\$5,000 — \$6,999	75% of property tax* exceeding 2.5% of household gross income
\$7,000 — \$9,999	75% of property tax* exceeding 3.0% of household gross income
\$10,000 — \$14,999	75% of property tax* exceeding 3.5% of household gross income
\$15,000 — \$20,000	75% of property tax* exceeding 4.0% of household gross income

*or rent paid constituting property tax (15% of rent)

(3) For taxable years beginning after December 31, 1977, the percentage required under paragraph (1) of this subsection to be determined for elderly, blind, or disabled claimants shall be the percentage specified in the following table:

Elderly, Blind, or Disabled Circuit Breaker

If household gross income is:	The credit shall equal the amount of property taxes paid or rent paid constituting property taxes (15% of rent) which is in excess of the following percentage of household gross income:
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Under \$4,999	1.0%
\$5,000 to \$9,999	1.5%
\$10,000 to \$14,999	2.0%
\$15,000 to \$20,000	2.5%

(4) All eligible claimants who rent their principal place of residence, who reside in the same and who receive rental supplements under the provisions of Title III of the Rental Housing Act of 1977, shall, when computing their income tax credit pursuant to this section, deduct from the amount of said credit the total amount of rental supplements received during the taxable year. The amount of credit which is in excess of any rental supplements received shall constitute the eligible claimant's total income tax credit under this section. If the amount of rental supplements received exceeds the amount of credit calculated under this section, then the eligible claimant's credit shall equal zero.

(b) For purposes of this section:

(1)(A) The term "household gross income" means gains, profits, and income derived from salaries, wages, or compensation for personal services of whatever kind and in whatever form paid, including salaries, wages, and compensation paid by the United States to its officers and employees, or income derived from any trade or business or sales or dealings in property

whether real or personal, including capital assets as defined in this chapter growing out of the ownership or sale of or interest in such property; income from rent, royalties, interest, dividends, securities, or transactions of any trade or business carried on for gain or profit, or gains or profits and income derived from any source whatever, including but not limited to cash distributions from a business or investment entity in which the claimant has an interest, alimony, and separate maintenance payments (including amounts received under separate maintenance agreements), strike benefits, cash public assistance and relief (not including relief or credit granted under this section), sick pay, workmen's compensation, proceeds of life insurance policies, the gross amount of any pension or annuity (including railroad retirement benefits, veterans' disability pensions, or payment received under the federal Social Security Act), state or District of Columbia unemployment compensation laws, and nontaxable interest received from the United States, a state or any agency or instrumentality thereof. The word "income" does not include gifts from nongovernmental sources, food stamps, or food or other relief in kind supplied by a governmental agency.

(B) In determining household gross income the exclusions from gross income as provided by § 47-1803.2(a) shall not apply.

(2) The term "household income" shall have the same meaning as the words "adjusted gross income" as defined in subsection (c) of § 47-1803.2. For purposes of determining adjusted gross income within the meaning of this section, gross income shall mean household income as defined in this section.

(3) The term "home" means the claimant's dwelling house, whether owned or rented by the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, and may include a multi-unit building or a multi-purpose building and a part of the land upon which it is located.

(4) The term "claimant" means a person who has filed a claim under this section, was an owner of record of a home in the District, or a lessee, tenant at will, or tenant at sufferance paying rent on a home in the District, during the entire calendar year preceding the year in which he files a claim for relief under this section. Only 1 claimant per home and per household per year shall be entitled to relief under this section.

(5) The term "elderly claimant" means a claimant who is 62 years of age or older during any tax year or part thereof beginning after December 31, 1976, and who, together with his or her spouse, if any, provides 50% or more of the household gross income of the household of which he or she is a part.

(6) The term "blind claimant" means a claimant whose central visual acuity does not exceed $\frac{20}{200}$ in the better eye with correcting lenses or whose visual acuity is greater than $\frac{20}{200}$ but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(7)(A) The term "disabled claimant" means a claimant unable to engage in any gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Certification of such physical or mental impairment shall be attested to by a licensed physician selected by the claimant at his or her own expense. Such claims and certification shall be submitted in such form and in such manner and at such time as the Mayor shall prescribe.

(B) In the event that the Mayor shall determine that a claim made under the provisions of this subsection is unsubstantiated by available evidence, the Mayor may require the claimant to be examined by a licensed physician chosen by the Mayor at the expense of the District of Columbia government.

(8)(A) The term "rent paid" is that amount paid by a claimant to a landlord solely for the right of occupancy of a home in the District, including the right to use the personal property located therein. Utility charges may be included in the amount of rent paid if they are included in the amount paid to a landlord in connection with the right to occupancy. The term "rent paid" does not include:

(i) Rental supplements obtained under the provisions of Title III of the Rental Housing Act of 1977;

(ii) Advance rental payments for another period;

(iii) Rental deposits, whether or not expressly set out in the rental agreement;

(iv) Any charges for medical services or food provided by the landlord; or

(v) Payments made to a landlord for the right of occupancy of property which is exempt from District real property taxes.

(B) The term "rent constituting property taxes accrued" means 15% of the rent paid in any calendar year by a claimant solely for the right of occupancy of his home in the calendar year, and which constitutes the basis of a claim in the succeeding calendar year for a credit for property taxes paid.

(c) In the event that any installment of rent for a calendar year for which a claim is filed is paid prior to the beginning of or subsequent to the end of such calendar year, it shall be included as rent for the year for which the claim was made and for no other year, and shall not be included as rent for purposes of this section for the year in which the installment was paid.

(d) If the Mayor determines that the rent paid was not the result of an agreement entered into at arm's length between the tenant and his landlord, the Mayor may adjust the rent to a reasonable amount for the purposes of this section.

(e)(1) Beginning with calendar year 1977, and for each succeeding calendar year, if a claimant owns and occupies his or her home in the District on December 31st of any such year, "property taxes accrued" means real property taxes (exclusive of special assessments, interest on a delinquency in payment of tax, and penalties and services charges) as reflected on the District real estate tax bill ordinarily sent out in September of such year; provided, however, that any amount of real property tax deferred under the provisions of § 47-845 shall be considered as "property taxes accrued" for the purpose of determining the credit allowable under this section. If a home is an integral part of a larger unit such as a multi-purpose building or a multi-dwelling

building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the home bears to the total value of the property.

(2) When a claimant owns or rents 2 or more different homes in the District in the same calendar year, "property taxes accrued" or "rent constituting property taxes accrued" shall be based on the claimant's status as an owner or renter on December 31st of such calendar year.

(3) When a claimant rents 2 or more different homes in the District in the same calendar year, rent paid by the claimant during that year shall be determined by dividing the rent paid pursuant to the last rental agreement in force during that calendar year by the number of months during that calendar year for which this rent was paid and by multiplying the result by 12.

(f) The right to file under this section shall be personal to the claimant, but such right may be exercised by his legal guardian or attorney-in-fact. The right to file a claim shall not survive the death of a claimant. If a claimant dies after having filed a claim, any amount refunded as a result thereof shall be disbursed to his estate; provided, that if no executor or administrator qualifies therein within 2 years of the filing of the claim, or no petition for distribution of a small estate is filed pursuant to §§ 20-2101 and 20-2102, the claim shall not be allowed.

(g) Subject to the limitations provided in this section, commencing with the taxable year beginning after December 31, 1974, and for succeeding taxable years, the claimant may claim as a credit against the District income taxes otherwise due on his income, property taxes accrued or rent constituting property taxes accrued for that year. If the allowable amount of such claim exceeds the income taxes otherwise due from the claimant, or other tax liabilities of the claimant to the District, or if there are no District income taxes due from the claimant, the amount of the claim not used as an offset against income taxes or other tax liabilities of the claimant to the District shall be paid or credited to the claimant. No interest shall be allowed on any payment made to a claimant pursuant to this section.

(h) No claim with respect to property taxes accrued or with respect to rent constituting property taxes accrued shall be allowed unless a District of Columbia individual income tax return or (if the claimant is not required to file such return) a claim for credit under this section is filed with the District on the forms and in such manner and with such information as the Mayor may prescribe. Any claim for credit shall be filed with the District on or before the expiration of the 3-year statute of limitations. The statute of limitations shall commence to run on April 15th of the year following the year for which the claim is made.

(i) The amount of any claim otherwise payable under this section may be applied by the District against any outstanding tax liability of the claimant to the District.

(j)(1) In determining eligibility for the credit allowable under this section, and for the purpose of determining outstanding tax liability (if any) of the claimant to the District household income for which the claim is filed and the claimant's outstanding tax liability (if any) shall be determined on the basis of the combined household income of all members present in the household.

(2) In the case of husband and wife who, during the entire calendar year for which a claim is filed under this section, maintain separate homes, for the purpose of determining household income and the claimant's outstanding tax liability (if any), such husband and wife shall be deemed to have been unmarried during the calendar year for which the claim is made.

(k) No credit shall be allowed under this subchapter for any year during which the person claiming the credit was a dependent, under any state, federal, or District law levying a tax on income, unless during that year such person is or becomes 65 years of age or older.

(l) A claimant whose claim is based on the amount of rent paid shall substantiate the rent paid upon a request by the Mayor.

(m)(1) If, on an audit of any claim filed under this section, the Mayor finds the amount to have been incorrectly computed, he shall determine the correct amount and notify the claimant in accordance with the procedures set forth in § 47-1812.5.

(2) If it is determined that a claim was filed with fraudulent intent, it shall be disallowed in full. If the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and the amount paid shall be assessed against the claimant and recovered in the same manner as provided for the collection of taxes under § 47-412.

(n) No claim for relief under this section shall be allowed to any person who was not living in a home which was subject to District of Columbia real property taxation during the calendar year for which the claim is filed.

(o) The Mayor is authorized to provide a table which will approximate, as closely as feasible, the amount of relief allowable under this section.

(p) If it is determined by the District that a claimant received title to his home in the District or became legally obligated to pay rent for his home in the District primarily for the purpose of receiving benefits under the provisions of this section, his claim shall be disallowed.

(q) The Council of the District of Columbia is empowered to make such changes in the amount of annual relief provided under subsection (a) of this section as it may deem proper. (July 16, 1947, 61 Stat. 345, ch. 258, art. I, title VI, § 8; 1973 Ed., § 47-1567g; Sept. 3, 1974, 88 Stat. 1060, Pub. L. 93-407, title IV, § 451; Jan. 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 7(a)(1), (b)(1), (c)-(e); Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(d)(2), 23 DCR 8749; Feb. 28, 1978, D.C. Law 2-45, § 4, 24 DCR 3614; Mar. 3, 1979, D.C. Law 2-130, § 6, 25 DCR 2517; Nov. 20, 1979, D.C. Law 3-37, § 5, 26 DCR 1564; June 11, 1982, D.C. Law 4-118, § 112, 29 DCR 1770; July 24, 1982, D.C. Law 4-131, § 108(c), (d), 29 DCR 2418; Apr. 30, 1988, D.C. Law 7-104, § 39(d), (e), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authorization of Mayor to promulgate rules and regulations, see § 47-814.

Section references. — This section is referred to in §§ 47-1808.6 and 47-1809.3.

Legislative history of Law 1-124. — See note to § 47-1803.2.

Legislative history of Law 2-45. — Law

2-45, the "Residential Property Tax Relief Act of 1977," was introduced in Council and assigned Bill No. 2-127, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings on June 28, 1977, July 26, 1977 and September 13, 1977, respectively. Signed by the Mayor on November 2, 1977, it was assigned

Act No. 2-96 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-130. — Law 2-130, the “District of Columbia Renters and Homeowners Tax Reduction Act of 1978,” was introduced in Council and assigned Bill No. 2-318, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 27, 1978 and July 25, 1978, respectively. Signed by the Mayor on August 30, 1978, it was assigned Act No. 2-268 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-37. — Law 3-37, the “Real Property Tax Classifications Act for Tax Year 1980,” was introduced in Council and assigned Bill No. 3-141, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 31, 1979 and September 11, 1979, respectively. Signed by the Mayor on September 28, 1979, it was assigned Act No. 3-104 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 7-104. — See note to § 47-1803.3.

References in text. — The definition of “adjusted gross income,” referred to as being contained in subsection (c) of § 47-1803.2 in subsection (b)(2), is now contained in subsection (b) of § 47-1803.2.

“The Rental Housing Act of 1977,” referred to in (b)(8)(A)(i), is D.C. Law 2-54, which had been codified as Chapter 16 of title 45, and has been superseded by the Rental Housing Act of 1980, D.C. Law 3-131. See also § 45-1603(15).

Sections 20-2101 and 20-2102, referred to near the end of subsection (f) of this section, refer to sections contained in Title 20 prior to the title’s revision by D.C. Law 3-72, effective June 24, 1980.

Definitions applicable. — The definitions in § 47-803 apply to this section.

Subchapter VII. Tax on Corporations and Financial Institutions.

§ 47-1807.1. Tax on corporations — Definitions.

For purposes of this subchapter, the term:

(1) “Corporation” shall, for taxable years beginning after December 31, 1980, include financial institutions.

(2) “Taxable income” means the amount of net income derived from sources within the District within the meaning of §§ 47-1810.1 to 47-1810.3.

(3) “Taxable period” means a taxable year or a portion of a taxable year. (July 16, 1947, 61 Stat. 345, ch. 258, art. I, title VII, § 1; 1973 Ed., § 47-1571; Sept. 26, 1984, D.C. Law 5-113, § 302(a)(1), 31 DCR 3974; Oct. 1, 1987, D.C. Law 7-29, § 2(g)(1), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to filing of returns, see § 47-1805.3.

As to tax on gas, electric lighting and telephone companies, see § 47-2501.

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

No particular tax calculating formula directed. — Section 47-1807.2 does not disclose a congressional intent to direct the use of any particular formula in calculating the tax. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

And District not bound by federal regulations. — In establishing a formula for the determination of the tax, the District government is not bound by the regulations issued under the comparable provision of the federal income tax law. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir.

1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

For tax source purposes there cannot be more than 1 source, and it is either within or without the District. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Source of dividends is the domicile of the paying or issuing corporation. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Source of interest income is the obligor and its situs is his residence. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Cited in *District of Columbia v. Virginia Hotel Co.*, 204 F.2d 390 (D.C. Cir. 1953); *Floyd E. Davis Mtg. Corp. v. District of Columbia*, App. D.C., 455 A.2d 910 (1983); *McLean Gardens Corp. v. District of Columbia*, 111 WLR 785 (Super. Ct. 1983).

§ 47-1807.2. Same — Levy and rates.

(a) Except as exempted under subchapter II of this chapter, for the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is levied:

(1) For 1 taxable year beginning after December 31, 1974, a tax at the rate of 12% upon the taxable income of every corporation, whether domestic or foreign;

(2) For the taxable years beginning after December 31, 1975, a tax at the rate of 9% upon the taxable income of every corporation, whether domestic or foreign, except that, effective October 1, 1984, the rate of tax shall be 10% upon the taxable income for any taxable period, except that for taxable years beginning after December 31, 1994, the rate of tax shall be 9.5%;

(3) A surtax on the tax determined under paragraph (2) of this subsection at the following rates:

(A) 10% for any taxable period beginning after December 31, 1975, and ending before October 1, 1984;

(B) 5% for any taxable period beginning after September 30, 1984, and ending before October 1, 1987;

(C) 2.5% for any taxable period beginning after September 30, 1987, and ending before October 1, 1989;

(D) 5% for any taxable period beginning after September 30, 1989, and ending before October 1, 1992; and

(E) 2.5% for any taxable period beginning after September 30, 1992; and

(4) A surtax, separate from and in addition to, the surtax imposed by paragraph (3) of this subsection, on the tax determined under paragraph (2) of this subsection at a rate of 2.5% for any tax period beginning on or after October 1, 1994.

(b) The minimum tax payable under this section shall be \$100. Corporations or financial institutions including International Banking Facilities shall not be exempt from the minimum tax payable under this section even if the business or source income is exempt under other provisions of this chapter.

(c) The taxes imposed by this section shall, during the 3 tax years beginning after June 30, 1981, be subject to the transition rules provided in § 47-2507. (July 16, 1947, 61 Stat. 345, ch. 258, art. I, title VII, § 2; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 202(a); Oct. 31, 1969, 83 Stat. 178, Pub. L. 91-106, title VI, § 604(a)(1); Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title

IV, §§ 401, 403; 1973 Ed., § 47-1571a; Oct. 21, 1975, D.C. Law 1-23, title VI, § 603, 22 DCR 2111; July 27, 1976, D.C. Law 1-77, § 2, 23 DCR 1218; Mar. 16, 1978, D.C. Law 2-58, § 201, 24 DCR 5765; Sept. 13, 1980, D.C. Law 3-95, § 105(b), 27 DCR 3509; Sept. 17, 1982, D.C. Law 4-150, § 104, 29 DCR 3377; June 22, 1983, D.C. Law 5-14, § 902, 30 DCR 2632; Sept. 26, 1984, D.C. Law 5-113, § 302(a)(1), 31 DCR 3974; Oct. 1, 1987, D.C. Law 7-29, § 2(g)(2), 34 DCR 5097; July 26, 1989, D.C. Law 8-17, § 2(d), 36 DCR 4160; June 14, 1994, D.C. Law 10-128, § 103(c), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 301(a)(1), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

As to persons required to file returns, see § 47-1805.2.

Section references. — This section is referred to in §§ 9-802, 47-1807.2a, and 47-3213 to 47-3215.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-77. — Law 1-77, the "Corporate and Unincorporated Business Franchise Surtax Act of 1976," was introduced in Council and assigned Bill No. 1-265, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 6, 1976 and April 20, 1976, respectively. Signed by the Mayor on May 18, 1976, it was assigned Act No. 1-120 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-58. — Law 2-58, the "Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977," was introduced in Council and assigned Bill No. 2-169, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 13, 1977 and October 11, 1977, respectively. Signed by the Mayor on December 30, 1977, it was assigned Act No. 2-127 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-150. — See note to § 47-1801.4.

Legislative history of Law 5-14. — Law 5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — See note to § 47-1807.1.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 8-17. — See note to § 47-1803.2.

Legislative history of Law 10-128. — See note to § 47-1801.4.

Legislative history of Law 10-188. — See note to § 47-1807.2a.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-1807.2a.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority. — See note to § 47-1807.2a

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

Corporation engaging in commercial activity in District subject to tax. — Where a Corporation is engaged in commercial activity and is in business in the District and has an office and an officer in the District, it is subject to the District business privilege tax. *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953).

As is corporation with agents or representatives. — Where a foreign corporation enters into contracts with factors in the District to sell the corporation's products for it, and the factors are agents or representatives having offices within the District, the corporation is not exempt from paying the franchise tax. *Lever Bros. Co. v. District of Columbia*, 204 F.2d 39 (D.C. Cir. 1953).

Company could not claim federal exemption. — The court did not have to decide whether 15 U.S.C. §§ 381-384, which prohibits states from taxing certain income derived from interstate commerce, applies to the District of Columbia, since the sales representatives of the company taxed under this section had established permanent offices within the District,

thereby putting the company's activities outside the protection of the federal statute. *Jantzen, Inc. v. District of Columbia*, App. D.C., 395 A.2d 29 (1978).

For tax source purposes there cannot be more than 1 source, and it must be either within or without the District. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Source of interest income is the obligor and its situs is his residence. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Source of dividends is the domicile of the paying or issuing corporation. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Section covers a foreign corporation which is receiving income from a District source even if it is not engaging in business within the District. *Capital Holding Corp. v. District of Columbia*, App. D.C., 374 A.2d 573 (1977).

Court is not concerned with the sources of a subsidiary's income, but only with the sources of the parent corporation's income. *Consolidated Title Corp. v. District of Columbia*, 275 F.2d 885 (D.C. Cir.), cert. denied, 364 U.S. 817, 81 S. Ct. 48, 5 L. Ed. 2d 48 (1960).

But income from District subsidiary cannot exceed local net income. — A foreign corporation's liability on the income it obtains from its District subsidiary cannot exceed the amount of net income derived from sources within the District. *Capital Holding Corp. v. District of Columbia*, App. D.C., 374 A.2d 573 (1977).

Sales to United States by local corporation apportionable. — Sales of tangible personal property to the United States by a corporation having its principal place of business in the District are apportionable on the same basis as sales of like property to private customers. *District of Columbia v. Gallant, Inc.*, 305 F.2d 761 (D.C. Cir. 1962).

Regulations promulgated under section are not applicable to taxable years prior to adoption. *District of Columbia v. Southern Ry.*, 277 F.2d 84 (D.C. Cir. 1960).

And do not have to be based on federal regulations. — The Congressional intent is not to direct that the District base its regulations on those promulgated under the federal statute. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

No particular factors required in apportionment formula. — The District government is not required to give weight to any particular factors in prescribing a formula to determine the portion of net income fairly attributable to business carried on within the District. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

And there is no implied prohibition against the use of the sales factor of the taxpayer alone in making a tax apportionment. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

Taxpayer must exhaust administrative remedy. — Where a taxpayer fails to show that it exhausted the administrative remedy, it is not entitled to ask the court to hold that the assessments are invalid and erroneous. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

Cited in *Industrial Coverall Laundry Corp. v. District of Columbia*, 188 F.2d 669 (D.C. Cir. 1951); *Thomas Paper Stock Co. v. District of Columbia*, 255 F.2d 180 (D.C. Cir. 1958); *Floyd E. Davis Mtg. Corp. v. District of Columbia*, App. D.C., 455 A.2d 910 (1983); *McLean Gardens Corp. v. District of Columbia*, 111 WLR 785 (Super. Ct. 1983).

§ 47-1807.2a. Same — Transfer of surtax to Convention Center Authority.

(a) The Mayor shall collect the surtax levied pursuant to § 47-1807.2(a)(4), acting as agent on behalf of the Washington Convention Center Authority, and shall transfer the revenue from the surtax, on a monthly basis, to the Washington Convention Center Authority Fund established pursuant to § 9-809.

(b) The Mayor may develop and apply a fixed formula to the taxes imposed pursuant to § 47-1807.2(a)(2) and the surtax levied pursuant to § 47-1807.2(a)(4) to determine the amount that shall be transferred to the Authority. (July 16, 1947, 61 Stat. 331, ch. 258, art. I, title VII, § 2a, as added Sept.

28, 1994, D.C. Law 10-188, § 301(a)(2), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Emergency act amendments. — For temporary amendment of section, see § 2(b) of the Washington Convention Center Authority Act of 1994 Emergency Amendment Act of 1996 (D.C. Act 11-393, October 1, 1996, 43 DCR 5430).

Section 4 of D.C. Act 11-393 provides for application of the act.

Legislative history of Law 10-188. — Law 10-188, the "Washington Convention Center Authority Act of 1994," was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and sequentially to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

Legislative history of Law 11-262. — Law 11-262, the "Washington Convention Center Authority Act of 1994 Time Extension Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-986, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 1996, and January 7, 1997, respectively. Signed by the Mayor on January 23, 1997, it was assigned Act No. 11-529 and transmitted to both Houses of Congress for its review. D.C. Law 11-262 became effective on April 25, 1997.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994, if the Board does not submit final financial requirements and a feasibility analysis to the Mayor and the Council as provided by § 9-707(h).

For temporary amendment of D.C. Law 10-188, § 306(a), see § 2(b) of the Washington

Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Section 2 of D.C. Law 11-262, substituted "2 years and 5 months" for "2 years" in D.C. Law 10-188, § 306(a).

Section 4(b) of D.C. Law 11-262 provides that the act shall expire after 225 days of its having taken effect.

Audit of accounts and operation of Authority. — Section 305(a) of D.C. Law 10-188 provided that "on or before July 1 of each year, the District of Columbia Auditor, pursuant to the Auditor's duties under § 47-117(b), shall audit the accounts and operation of the Authority and make a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year."

Section 305(b) of D.C. Law 10-188 provided that "if the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-807(g)."

§ 47-1807.3. Same — Financial institutions included.

Repealed. Sept. 26, 1984, D.C. Law 5-113, § 302(a)(2), 31 DCR 3974.

Legislative history of Law 5-113. — See note to § 47-2601.

§ 47-1807.4. Tax credit to qualified businesses for wages to qualified employees; exceptions.

(a) Except as provided in subsection (b) of this section, for taxable years beginning after December 31, 1988, any incorporated business approved as

qualified pursuant to § 5-1404 shall be allowed a credit against the tax imposed by this chapter in an amount equal to 50% of the wages paid by the qualified incorporated business to an employee certified by the Mayor under § 5-1404(c), during the first 24 calendar months in which the employer employed the certified employee.

(b) The credit under subsection (a) of this section shall not be allowed:

(1) To exceed, for any certified employee, a total of \$7,500 in any 1 taxable year;

(2) Until the qualified incorporated business has employed the certified employee for at least 760 hours;

(3) For any calendar month in which the qualified incorporated business has not employed the certified employee for at least 90 hours;

(4) If the qualified incorporated business pays the certified employee less than the greater of the legal minimum wage or the wage the qualified incorporated business pays other employees in similar jobs;

(5) If the qualified incorporated business accords the certified employee lesser benefits or rights than it accords other employees in similar jobs;

(6) If the certified employee was employed as the result of the displacement, other than for cause, of another employee, or as the result of a strike or lockout, or a layoff in which other employees are awaiting recall, or a reduction of the regular wages, benefits, or rights of other employees in similar jobs;

(7) If the qualified incorporated business does not meet, with respect to the employment of the certified employee, all federal and District of Columbia laws and regulations, including those concerning health, safety, child labor, work/hour, and equal employment opportunity; or

(8) If the certified employee is a member of the board of directors of the qualified incorporated business, directly or indirectly owns a majority of its stock, or is related to a member of the board of directors or a majority stockholder as a spouse or as any relative listed in the definition of "dependent" in § 152 of the Internal Revenue Code of 1986 (26 U.S.C. § 152), without regard to source of income.

(c) Whenever a qualified incorporated business is prevented from claiming the credit for wages paid because the certified employee was not employed for the period of time required by subsection (b)(2) and (3) of this section, the credit for wages paid may be claimed against the tax for the immediately succeeding taxable period in which the period of employment satisfies the requirement of subsection (b)(2) of this section.

(d) If the amount of the credit allowable under this section exceeds the tax otherwise due from a qualified incorporated business, the amount of the credit not used as an offset against the tax may be carried forward or back for up to 5 years, except that no portion of the credit shall be:

(1) Carried back to any taxable year ending before January 1, 1990; or

(2) Claimed for any taxable year in which the qualified incorporated business was not located within an economic development zone or did not employ a certified employee. (July 16, 1947, ch. 258, art. I, title VII, § 3, as added Oct. 20, 1988, D.C. Law 7-177, § 10(b), 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 5-1404 and 47-1808.7.

Mayor authorized to issue rules. — See note to § 47-1803.3.

Legislative history of Law 7-177. — See note to § 47-1803.3.

§ 47-1807.5. Reduction of tax credit for insurance premiums; exceptions.

(a) Except as provided in subsection (b) of this section, for taxable years beginning after December 31, 1988, the amount of tax payable under this chapter by an incorporated business approved as qualified under § 5-1404 shall be reduced by a credit equal to 50% of the insurance premiums attributable to a certified employee paid to insure employers against liability for compensation to residents of the District of Columbia under Chapter 3 of Title 36, for each of the first 24 months during which the qualified incorporated business has employed a certified employee.

(b) The credit under subsection (a) of this section shall not be allowed:

(1) Until the qualified incorporated business has employed the certified employee for at least 760 hours;

(2) For any calendar month in which the qualified incorporated business has not employed the certified employee for at least 90 hours;

(3) If the qualified incorporated business pays the certified employee less than the greater of the legal minimum wage or the wage the qualified incorporated business pays other employees in similar jobs;

(4) If the qualified incorporated business accords the certified employee lesser benefits or rights than it accords other employees in similar jobs;

(5) If the certified employee was employed as the result of the displacement, other than for cause, of another employee, or as the result of a strike or lockout, or a layoff in which other employees are awaiting recall, or a reduction of the regular wages, benefits, or rights of other employees in similar jobs;

(6) If the qualified incorporated business does not meet, with respect to the employment of the certified employee, all federal and District of Columbia laws and regulations, including those concerning health, safety, child labor, work/hour, and equal employment opportunity; or

(7) If the certified employee is a member of the board of directors of the qualified incorporated business, directly or indirectly owns a majority of its stock, or is related to a member of the board of directors or a majority stockholder as a spouse or as any relative listed in the definition of "dependent" in § 152 of the Internal Revenue Code of 1986 (26 U.S.C. § 152), without regard to source of income.

(c) If the amount of the credit allowable pursuant to this section exceeds the tax imposed by this chapter otherwise due from a qualified incorporated business, the amount of the credit not used as an offset against the tax may be carried forward or back for up to 5 years, except that no portion of the credit shall be:

(1) Carried back to any taxable year ending before January 1, 1990; or

(2) Claimed for any taxable year in which the qualified incorporated business was not located within an economic development zone or did not

employ a certified employee. (July 16, 1947, ch. 258, art. I, title VII, § 4, as added Oct. 20, 1988, D.C. Law 7-177, § 10(b), 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 5-1404 and 47-1808.7.

Mayor authorized to issue rules. — See note to § 47-1803.3.

Legislative history of Law 7-177. — See note to § 47-1803.3.

§ 47-1807.6. Tax credit for income that includes rent charged to licensed, nonprofit child development center; exceptions.

(a) For taxable years beginning after December 31, 1988, any qualified incorporated business under § 5-1404 having taxable income that includes rent charged to a licensed, non-profit child development center shall be allowed a credit against the tax imposed by this chapter in an amount equal to the amount by which the fair market value of the space leased to the licensed, nonprofit child development center exceeds the rent charged by the business to the licensed, non-profit child development center.

(b) For purposes of this section, the term:

(1) "Fair market rental value" means:

(A) The average rent charged by the incorporated business to tenants in the same building, other than the licensed, nonprofit child development center, for comparable space; or

(B) When a licensed, nonprofit child development center is the sole lessee occupying space in the building, or when the building contains no space comparable to that occupied by the licensed, nonprofit child development center, an amount as determined by the Mayor with reference to the average rent charged to tenants for occupancy of comparable space in other buildings in the economic development zone.

(2) "Child development center" means a child development center as that term is defined in § 3-301(2).

(c) If the amount of the credit allowable under this section exceeds the tax otherwise due from a qualified incorporated business, the amount of the credit not used as an offset against the tax may be carried forward or back for up to 5 years, except that no portion of the credit shall be:

(1) Carried back to any taxable year ending before January 1, 1990; or

(2) Claimed for any taxable year in which the qualified incorporated business was not located within an economic development zone or did not employ a certified employee. (July 16, 1947, ch. 258, art. I, title VII, § 5, as added Oct. 20, 1988, D.C. Law 7-177, § 10(b), 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1808.7.

Mayor authorized to issue rules. — See note to § 47-1803.3.

Legislative history of Law 7-177. — See note to § 47-1803.3.

*Subchapter VIII. Tax on Unincorporated Businesses.***§ 47-1808.1. Tax on unincorporated businesses — Definition.**

For the purposes of this chapter (not alone of this subchapter) and unless otherwise required by the context, the term “unincorporated business” means any trade or business, conducted or engaged in by any individual, whether resident or nonresident, statutory or common-law trust, estate, partnership, or limited or special partnership, society, association, executor, administrator, receiver, trustee, liquidator, conservator, committee assignee, or by any other entity or fiduciary, other than a trade or business conducted or engaged in by any corporation and include any trade or business which if conducted or engaged in by a corporation would be taxable under subchapter VII of this chapter. The term “unincorporated business” does not include:

(1) A trade or a business which by law, customs, or ethics cannot be incorporated;

(2) A trade, a business, or a profession which can be incorporated only under Chapter 6 of Title 29;

(3) A trade or business in which more than 80% of the gross income is derived from the personal services actually rendered by the individuals or the members of the partnership or other entity in the conducting or the carrying on of a trade or a business and in which capital is not a material income-producing factor; or

(4) A trade or a business engaged in by a blind person licensed by the District of Columbia pursuant to An Act To authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes (20 U.S.C. § 107 et seq.). (July 16, 1947, 61 Stat. 345, ch. 258, art. I, title VIII, § 1; Dec. 10, 1971, 85 Stat. 582, Pub. L. 92-180, § 21; 1973 Ed., § 47-1574; Oct. 21, 1975, D.C. Law 1-23, title VI, § 605, 22 DCR 2113; June 11, 1982, D.C. Law 4-118, § 113, 29 DCR 1770; Oct. 8, 1983, D.C. Law 5-32, § 6(a), 30 DCR 4013; Mar. 12, 1986, D.C. Law 6-89, § 2, 33 DCR 304; Oct. 1, 1987, D.C. Law 7-29, § 2(h)(1), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to professional corporations, see Chapter 6 of Title 29.

As to deductions from gross income, see § 47-1803.3.

Section references. — This section is referred to in §§ 47-1803.3, 47-1805.2, 47-1806.1, 47-1806.4, and 47-1814.1.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Legislative history of Law 6-89. — Law 6-89, the “Blind Vendors Tax Relief Amendment Act of 1985,” was introduced in Council and assigned Bill No. 6-132, which was referred

to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 19, 1985 and December 3, 1985, respectively. Signed by the Mayor on December 30, 1985, it was assigned Act No. 6-117 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Mayor authorized to issue regulations. — Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Unincorporated business tax is an income tax. *Bishop v. District of Columbia*, App. D.C., 401 A.2d 955 (1979), *aff’d*, App. D.C., 411

A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

Neither property ownership nor leasing necessarily constitutes real estate business. — Neither ownership per se nor even leasing of property by the owner necessarily constitutes the carrying on of the business of renting real estate within the District franchise tax imposed on businesses. *District of Columbia v. Brady*, 288 F.2d 108 (D.C. Cir. 1960).

Stock brokerage is not exempt from an unincorporated business tax. *Hendrick v. District of Columbia*, 183 F.2d 1002 (D.C. Cir. 1950).

Professional tax of this section is an invalid exercise of the Council's legislative authority under the Home Rule Act. *Bishop v. District of Columbia*, App. D.C., 401 A.2d 955 (1979), aff'd, App. D.C., 411 A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

Repeal of professional exemption invalid. — The 1975 repeal of the professional exemption contained in this section circumvented an express Congressional prohibition

and as such is invalid. *Bishop v. District of Columbia*, App. D.C., 411 A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

Court authorized to uphold correct tax where wrong capacity described. — The court has the authority to uphold the imposition of the correct tax, upon the right taxpayer, in the correct entity, where the only error found is in the capacity in which the taxpayer is described. *Arthur Jordan Found. v. District of Columbia*, 219 F.2d 503 (D.C. Cir. 1955).

Cited in *District of Columbia v. Adair*, 196 F.2d 603 (D.C. Cir. 1952); *Stone v. District of Columbia*, 198 F.2d 601 (D.C. Cir. 1952); *District of Columbia v. Ghent*, 220 F.2d 210 (D.C. Cir. 1955); *Rohrbaugh v. District of Columbia*, 225 F.2d 264 (D.C. Cir. 1955); *District of Columbia v. Ben Lar Assocs.*, 261 F.2d 376 (D.C. Cir. 1958); *District of Columbia v. Jones*, 270 F.2d 939 (D.C. Cir. 1959); *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992); *District of Columbia v. Califano*, App. D.C., 647 A.2d 761 (1994).

§ 47-1808.2. Same — Definitions.

For purposes of this subchapter, the term:

(1) "Taxable income" means the amount of net income derived from sources within the District, within the meaning of §§ 47-1810.1 to 47-1810.3, in excess of the exemption granted under § 47-1808.4.

(2) "Taxable period" means a taxable year, or a portion of a taxable year. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title VIII, § 2; 1973 Ed., § 47-1574a; Sept. 26, 1984, D.C. Law 5-113, § 302(b)(1), 31 DCR 3974; Oct. 1, 1987, D.C. Law 7-29, § 2(h)(2), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1803.3, 47-1805.2, 47-1806.1, and 47-1806.4.

Legislative history of Law 5-113. — See note to § 47-1807.1.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

Cited in *Bishop v. District of Columbia*, App. D.C., 401 A.2d 955 (1979), aff'd, App. D.C., 411 A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

§ 47-1808.3. Same — Levy and rates.

(a) Except as exempted under subchapter II of this chapter, for the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is levied:

(1) For 1 taxable year beginning after December 31, 1974, a tax at the rate of 12% upon the taxable income of every unincorporated business, whether domestic or foreign;

(2) For the taxable years beginning after December 31, 1975, a tax at the rate of 9% upon the taxable income of every unincorporated business, whether

domestic or foreign, except that, effective October 1, 1984, the rate of tax shall be 10% upon the taxable income for any taxable period, except that for taxable years beginning after December 31, 1994, the rate of tax shall be 9.5%;

(3) A surtax on the tax determined under paragraph (2) of this subsection at the following rates; and

(A) 10% for any taxable period beginning after December 31, 1975, and ending before October 1, 1984;

(B) 5% for any taxable period beginning after September 30, 1984, and ending before October 1, 1987;

(C) 2.5% for any taxable period beginning after September 30, 1987, and ending before October 1, 1989;

(D) 5% for any taxable period beginning after September 30, 1989, and ending before October 1, 1992; and

(E) 2.5% for any taxable period beginning after September 30, 1992.

(4) A surtax, separate from and in addition to, the surtax imposed by paragraph (3) of this subsection, on the tax determined under paragraph (2) of this subsection at a rate of 2.5% for any tax period beginning on or after October 1, 1994.

(b) The minimum tax payable under this section shall be \$100. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title VIII, § 3; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 202(b); Oct. 31, 1969, 83 Stat. 179, Pub. L. 91-106, title VI, § 604(a)(2); Dec. 15, 1971, 85 Stat. 654, Pub. L. 92-196, title IV, §§ 402, 404; 1973 Ed., § 47-1574b; Oct. 21, 1975, D.C. Law 1-23, title VI, § 604, 22 DCR 2112; July 27, 1976, D.C. Law 1-77, § 3, 23 DCR 1219; Mar. 16, 1978, D.C. Law 2-58, § 202, 24 DCR 5765; June 22, 1983, D.C. Law 5-14, § 903, 30 DCR 2632; Sept. 26, 1984, D.C. Law 5-113, § 302(b)(2), 31 DCR 3974; Oct. 1, 1987, D.C. Law 7-29, § 2(h)(3), 34 DCR 5097; July 26, 1989, D.C. Law 8-17, § 2(e), 36 DCR 4160; June 14, 1994, D.C. Law 10-128, § 103(d), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 301(b)(1), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

As to persons required to file returns, see § 47-1805.2.

Section references. — This section is referred to in §§ 47-1803.3, 47-1805.2, 47-1806.1, 47-1806.4, 47-1808.3a, 47-1808.4, 47-1808.5, 47-3213, 47-3214, and 47-3215.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 1-77. — See note to § 47-1807.2.

Legislative history of Law 2-58. — See note to § 47-1807.2.

Legislative history of Law 5-14. — See note to § 47-1807.2.

Legislative history of Law 5-113. — See note to § 47-1807.1.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 8-17. — See note to § 47-1803.2.

Legislative history of Law 10-128. — See note to § 47-1808.4.

Legislative history of Law 10-188. — See note to § 47-1807.2a.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-1807.2a.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority. — See note to § 47-1807.2a.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

§ 47-1808.3a. Same — Transfer of surtax to Convention Center Authority.

(a) The Mayor shall collect the surtax levied pursuant to § 47-1808.3(a)(4), acting as agent on behalf of the Washington Convention Center Authority, and shall transfer the revenue from the surtax, on a monthly basis, to the Washington Convention Center Authority Fund established pursuant to § 9-809.

(b) The Mayor may develop and apply a fixed formula to the taxes imposed pursuant to § 47-1808.3(a)(2) and the surtax levied pursuant to § 47-1808.3(a)(4) to determine the amount that shall be transferred to the Authority. (July 16, 1947, 61 Stat. 331, ch. 258, art. I, title VIII, § 3a, as added Sept. 28, 1994, D.C. Law 10-188, § 301(b)(2), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1806.1.

Legislative history of Law 10-188. — See note to § 47-1807.2a.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-1807.2a.

Audit of accounts and operation of Authority. — See note to § 47-1807.2a.

§ 47-1808.4. Same — Exemption.

Before computing the tax upon the taxable income of an unincorporated business, there shall be deducted therefrom an exemption of \$5,000; except, that where the period covered by a return is less than a year, or where a return shows that an unincorporated business has been carried on for less than 12 months, such exemption shall be prorated on a daily basis; provided, however, that any amount exempt under this section from the tax imposed by § 47-1808.3 shall be reported and included in the gross income of that person or those persons entitled to a share therein in proportion to the share to which each person is entitled, and shall be reported in the return of each such person for his or her taxable year in which is ended the taxable year of the unincorporated business. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title VIII, § 4; May 27, 1949, 63 Stat. 132, ch. 146, title IV, § 416; 1973 Ed., § 47-1574c; Feb. 3, 1976, D.C. Law 1-44, § 4, 23 DCR 4057; Oct. 8, 1983, D.C. Law 5-32, § 6(b), 30 DCR 4013; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to persons required to obtain trade, business or professional license, see § 47-1814.1.

Section references. — This section is referred to in §§ 5-1404, 47-1803.3, 47-1805.2, 47-1806.1, 47-1806.4, and 47-1808.2.

Legislative history of Law 1-44. — See note to § 47-1803.3.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Mayor authorized to issue regulations. — Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Cited in Bishop v. District of Columbia, App. D.C., 401 A.2d 955 (1979), aff'd, App. D.C., 411 A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

§ 47-1808.5. Same — Persons liable for payment.

The taxes imposed by § 47-1808.3 shall be payable by the person or persons, jointly and severally, conducting the unincorporated business. The taxes imposed under this subchapter may be assessed in the name of the unincorporated business or in the name or names of the person or persons liable for the payment of such taxes, or both. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title VIII, § 5; 1973 Ed., § 47-1574d; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1803.3, 47-1805.2, 47-1806.1, and 47-1806.4.

Cited in Bishop v. District of Columbia, App.

D.C., 401 A.2d 955 (1979), aff'd, App. D.C., 411 A.2d 997, cert. denied, 446 U.S. 966, 100 S. Ct. 2943, 64 L. Ed. 2d 825 (1980).

§ 47-1808.6. Partnerships.

Individuals carrying on any trade or business in partnership in the District, other than an unincorporated business, shall be liable for income tax only in their individual capacities. The tax on all such income shall be assessed against the individual partners under §§ 47-1806.1 to 47-1806.6. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year; or if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed. The term "accounting period" as used in this section refers to the calendar or fiscal year of a partnership. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title VIII, § 6; 1973 Ed., § 47-1574e; Oct. 1, 1987, D.C. Law 7-29, § 2(h)(4), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1803.3, 47-1805.2, 47-1806.1, and 47-1806.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

In order for partner to claim partnership loss deduction on partner's fractional year income tax return for the District of

Columbia, the partnership's taxable year, or other formally recognized accounting period during which all partner's distributive shares are commonly computed, must close with or within the partner's fractional tax year. Ward v. District of Columbia, 111 WLR 373 (Super. Ct. 1983); District of Columbia v. Terris, App. D.C., 604 A.2d 5 (1992).

§ 47-1808.7. Tax credit.

For taxable years beginning after December 31, 1988, the amount of tax payable by an unincorporated business approved as qualified under § 5-1404 shall be reduced by a credit equal to the credits available to qualified incorporated businesses pursuant to §§ 47-1807.4, 47-1807.5, and 47-1807.6. (July 16, 1947, ch. 258, art. I, title VIII, § 7, as added Oct. 20, 1988, D.C. Law 7-177, § 10(c), 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1803.3.

Mayor authorized to issue rules. — See note to § 47-1803.3.

Legislative history of Law 7-177. — See note to § 47-1803.3.

Subchapter IX. Tax on Estates and Trusts.

§ 47-1809.1. Tax on estates and trusts — Residency definitions.

For the purposes of this subchapter, estates and trusts are: (1) resident estates or trusts, or (2) nonresident estates or trusts. If the decedent was at the time of his death domiciled within the District, his estate is a resident estate, and any trust created by his will is a resident trust. If the decedent was not at the time of his death domiciled within the District, his estate is a nonresident estate, and any trust created by his will is a nonresident trust. If the creator of a trust was at the time the trust was created domiciled within the District, or if the trust consists of property of a person domiciled within the District, the trust is a resident trust. If the creator of the trust was not at the time the trust was created domiciled within the District, the trust is a nonresident trust. If the trust resulted from the dissolution of a corporation organized under the laws of the District of Columbia the trust is a resident trust. If the trust resulted from the dissolution of a foreign corporation, the trust is a nonresident trust. (July 16, 1947, 61 Stat. 346, ch. 258, art. I, title IX, § 1; 1973 Ed., § 47-1577; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1809.2.

§ 47-1809.2. Same — Effect of residence or situs of fiduciary.

The residence or situs of the fiduciary shall not control the classification of estates and trusts as resident or nonresident under the provisions of § 47-1809.1. (July 16, 1947, 61 Stat. 347, ch. 258, art. I, title IX, § 2; 1973 Ed., § 47-1577a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1809.3. Same — Imposition.

The taxes imposed by §§ 47-1806.1 to 47-1806.6 upon residents shall apply to the income of resident estates, and income from any kind of property held in resident trusts, including:

(1) Income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of any infant or incompetent person which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated. (July 16, 1947, 61 Stat. 347, ch. 258, art. I, title IX, § 3; 1973 Ed., § 47-1577b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

§ 47-1809.4. Same — Computation.

The tax shall be computed upon the taxable net income of the estate or trust, and shall be paid by the fiduciary, except as provided in § 47-1809.7 (relating to revocable trusts) and § 47-1809.8 (relating to income for benefit of the grantor). (July 16, 1947, 61 Stat. 347, ch. 258, art. I, title IX, § 4; 1973 Ed., § 47-1577c; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1809.5. Same — Net income.

The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except as to the personal exemptions and credits for dependents, and except that:

(1) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (2) of this section in the same or any succeeding taxable year;

(2) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary;

(3) There shall be allowed as a deduction, in lieu of a charitable contribution, any part of the gross income, without limitation, which, pursuant to the terms of the will or deed creating a trust, is during the taxable year paid or permanently set aside for the purposes and in the manner provided in the governing instrument creating the trust;

(4) There shall be allowed to an estate the same exemption as is allowed residents under the provisions of § 47-1806.2(a); and

(5) There shall be allowed to a trust a credit against net income of \$100. (July 16, 1947, 61 Stat. 347, ch. 258, art. I, title IX, § 5; May 27, 1949, 63 Stat.

132, ch. 146, title IV, § 415; 1973 Ed., § 47-1577d; June 11, 1982, D.C. Law 4-118, § 114, 29 DCR 1770; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1809.6.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

§ 47-1809.6. Same — Beneficiary taxable year.

If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under § 47-1809.5(1), to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within his taxable year. (July 16, 1947, 61 Stat. 348, ch. 258, art. I, title IX, § 6; 1973 Ed., § 47-1577e; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1809.7. Same — Revocable trusts.

The income of a trust shall be included in computing the net income of the grantor of such trust where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested:

(1) In the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom; or

(2) In any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom. (July 16, 1947, 61 Stat. 348, ch. 258, art. I, title IX, § 7; 1973 Ed., § 47-1577f; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1809.4.

§ 47-1809.8. Same — Income for benefit of grantor.

So much of the income of any trust shall be included in computing the net income of the grantor as:

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor;

(2) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in § 47-1803.3(a)(8), relating to the so-called "charitable contribution" deduction). (July 16, 1947, 61 Stat. 348, ch. 258, art. I, title IX, § 8; 1973 Ed., § 47-1577g; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1809.4.

§ 47-1809.9. Same — “In discretion of grantor” defined.

As used in this subchapter, the term “in the discretion of the grantor” means in the discretion of the grantor either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question. (July 16, 1947, 61 Stat. 348, ch. 258, art. I, title IX, § 9; 1973 Ed., § 47-1577h; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1809.10. Same — Employees’ trusts.

(a) *Exempt status.* — A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under this chapter and no other provision of this chapter shall apply with respect to such trust or to its beneficiary, except as hereinafter in this section expressly provided, if such trust meets the requirements for exemption from federal income tax under §§ 401, 402, and 501(a) of the Internal Revenue Code of 1986 (§§ 401, 402, and 501(a) of Title 26, United States Code).

(b) *Distributions.* — The amount actually distributed or made available to any distributee by any such trust shall be taxable to him, in the year in which so distributed or made available, under § 47-1803.2(b)(2) as if it were an annuity the consideration for which is the amount contributed by the employee.

(c) *Nonexempt contributions.* — Contribution to a trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under subsection (a) of this section shall be included in the gross income of an employee for the taxable year in which the contribution is made to the trust in the case of an employee whose beneficial interest in such contribution is nonforfeitable at the time the contribution is made. (July 16, 1947, 61 Stat. 348, ch. 258, art. I, title IX, § 10; 1973 Ed., § 47-1577i; June 24, 1987, D.C. Law 7-9, § 2(j), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(i), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Subchapter X. Purpose of Chapter and Allocation and Apportionment.

§ 47-1810.1. Purpose of chapter.

(a) It is the purpose of this chapter to impose:

(1) An income tax upon the entire net income of every resident and every resident estate and trust; and

(2) A franchise tax upon every corporation, financial institution, and unincorporated business for the privilege of carrying on or engaging in any trade or business within the District and of receiving such other income as is derived from sources within the District; provided, however, that, in the case of any corporation, the amount received as dividends from a corporation which is subject to taxation under this chapter or under Chapter 26 of this title, and, in the case of a corporation not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under this chapter or under Chapter 26 of this title shall not be considered as income from sources within the District for purposes of this chapter; and in the case of any corporation organized as a bank holding company under the provisions of the Bank Holding Company Act of 1956 and the Bank Holding Company Act Amendments of 1970, the amount received as dividends from a corporation which is subject to taxation under this chapter or under the provisions of § 47-2501, and in the case of any such bank holding company not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under such sections, shall not be considered as income from sources within the District for purposes of this chapter. Provided further, that income derived from the sale of tangible personal property by a corporation, financial institution, or unincorporated business not carrying on or engaging in trade or business within the District as defined in §§ 47-1801.1 to 47-1801.4 shall not be considered as income from sources within the District for purposes of this chapter, with the exception of income from sale to the United States not excluded from gross income as provided in § 47-1803.2(a)(2)(I); provided, further, that dividends received from subsidiary corporations for whom the taxpayer provides services are deemed to be business income subject to apportionment.

(b) Notwithstanding the provisions of this section, all interest received and all dividends (except dividends of corporations subject to the District of Columbia franchise tax or interest and dividends attributable to any IBF time deposit of IBF loan) received by financial institutions shall be deemed to be business income. (July 16, 1947, 61 Stat. 349, ch. 258, art. I, title X, § 1; May 3, 1948, 62 Stat. 207, ch. 246, § 2; 1973 Ed., § 47-1580; Apr. 17, 1974, 88 Stat. 85, Pub. L. 93-268, § 1; Sept. 13, 1980, D.C. Law 3-95, § 106(a), 27 DCR 3509; July 24, 1982, D.C. Law 4-131, § 102, 29 DCR 2418; Sept. 17, 1982, D.C. Law 4-150, § 105, 29 DCR 3377; Oct. 8, 1983, D.C. Laws 5-32, § 7, 30 DCR 4013; Oct. 1, 1987, D.C. Law 7-29, § 2(j), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-1142, 1-1149, 47-1803.3, 47-1805.2, 47-1807.1, 47-1808.2 and 47-1810.2.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 4-150. — See note to § 47-1801.4.

Legislative history of Law 5-32. — See note to § 47-1816.3.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

References in text. — The Bank Holding Company Act of 1956, referred to in the proviso in the first sentence in paragraph (2) of subsection (a) of this section, is 70 Stat. 133, ch. 240, approved May 9, 1956.

The Bank Holding Company Act Amendments of 1970, referred to in the same proviso, is 84 Stat. 1760, Pub. L. 91-607, approved December 31, 1970.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 and § 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of these acts.

Income tax predicated solely on taxpayer's resident status. — The District of Columbia predicates individual income tax liability solely on the taxpayer's resident status and not on the source of the income. *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

Passage of title useful in determining whether taxpayer in business. — In determining whether a taxpayer is carrying on a trade or business solely within the District for District franchise tax purposes, the passage of title is useful as a gauge but is not solely determinative of the source of income. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

But not fact that no jurisdiction has taxed taxpayer. — That no other jurisdiction has seen fit to tax a taxpayer as doing business therein is not persuasive that the taxpayer's business is solely within the District for District franchise tax purposes. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

Corporation engaged in commercial activity subject to tax. — Where a corporation is engaged in commercial activity and is in business in the District and has an office and officer in the District, it is subject to the District business privilege tax. *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953).

Section 47-1807.2 covers foreign corporation which is receiving income from a District source even if it is not engaging in business within the District. *Capital Holding Corp. v. District of Columbia*, App. D.C., 374 A.2d 573 (1977).

Court is not concerned with the sources of a subsidiary's income but only with the sources of the parent corporation's income. *Consolidated Title Corp. v. District of Columbia*, 275 F.2d 885 (D.C. Cir.), cert. denied, 364 U.S. 817, 81 S. Ct. 48, 5 L. Ed. 2d 48 (1960).

But income from District subsidiary cannot exceed local net income. — A foreign corporation's liability on the income it obtains from its District subsidiary cannot exceed the amount of net income derived from sources within the District. *Capital Holding Corp. v. District of Columbia*, App. D.C., 374 A.2d 573 (1977).

Source of dividends is the domicile of the paying or issuing corporation. *State Loan &*

Fin. Corp. v. District of Columbia, 381 F.2d 895 (D.C. Cir. 1967).

Source of interest income is the obligor and its situs is his residence. *State Loan & Fin. Corp. v. District of Columbia*, 381 F.2d 895 (D.C. Cir. 1967).

Section 47-1807.1 envisions situation where revenue of corporation comes from varied sources and can be separated into more than a single stream. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

Operating net income from the advertising and circulation of newspaper must be apportioned between its District and non-District sources. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

No particular factors required in apportionment formula. — The District is not required to give weight to any particular factors in prescribing a formula to determine the portion of net income fairly attributable to business carried on within the District. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834, rehearing denied, 359 U.S. 1005, 79 S. Ct. 1136, 3 L. Ed. 2d 1034 (1959).

And there is no implied prohibition against the use of the sales factor of a taxpayer alone in making a tax apportionment. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834, rehearing denied, 359 U.S. 1005, 79 S. Ct. 1136, 3 L. Ed. 2d 1034 (1959).

Measure of franchise tax not limited to title passing. — Under § 47-1807.1 et seq., the measure of tax is not limited to a sale in which the title passes in the District. *Lever Bros. Co. v. District of Columbia*, 204 F.2d 39 (D.C. Cir. 1953).

And rents and royalties from nonoperating District activities should be allocated to District in computing the District franchise tax. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

Franchise tax regulation amendment of 1953 did not operate retroactively. *District of Columbia v. RCA*, 232 F.2d 376 (D.C. Cir.), cert. denied, 352 U.S. 845, 77 S. Ct. 44, 1 L. Ed. 2d 51 (1956).

Apportionment formula valid. — The apportionment formula contained in the 1948 regulations to govern the computation of the franchise tax is valid. *District of Columbia v. RCA*, 232 F.2d 376 (D.C. Cir.), cert. denied, 352 U.S. 845, 77 S. Ct. 44, 1 L. Ed. 2d 51 (1956).

Taxpayer must exhaust administrative remedy. — Where a taxpayer fails to show that he has exhausted the administrative remedy, he is not entitled to ask the court to hold that

his assessments are invalid and erroneous. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834, rehearing denied, 359 U.S. 1005, 79 S. Ct. 1136, 3 L. Ed. 2d 1034 (1959).

Court authorized to uphold correct tax where capacity not described correctly. — The court has the authority to uphold the imposition of the correct tax, upon the right taxpayer, in the correct entity, where the only error found by the court is in the capacity in

which the taxpayer is described. *Arthur Jordan Found. v. District of Columbia*, 219 F.2d 503 (D.C. Cir. 1955).

Cited in *Industrial Coverall Laundry Corp. v. District of Columbia*, 188 F.2d 669 (D.C. Cir. 1951); *District of Columbia v. Virginia Hotel Co.*, 204 F.2d 390 (D.C. Cir. 1953); *Thomas Paper Stock Co. v. District of Columbia*, 255 F.2d 180 (D.C. Cir. 1958); *District of Columbia v. Gallant, Inc.*, 290 F.2d 745 (D.C. Cir. 1961); *District of Columbia v. Gallant, Inc.*, 305 F.2d 761 (D.C. Cir. 1962).

§ 47-1810.2. Allocation and apportionment of District and non-District income.

(a) *Allocation and apportionment.* — The entire net income of any corporation, financial institution, or unincorporated business derived from any trade or business carried on or engaged in wholly within the District shall, for the purposes of this chapter, be deemed to be from sources within the District and shall, along with other income from sources within the District, be allocated to the District. When the net income of a corporation, financial institution, or unincorporated business is derived from sources within and without the District, the taxpayer shall apportion business income and allocate nonbusiness income as provided in this section.

(b) *Taxation by another state.* — For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(c) *Allocation of nonbusiness income.* — (1) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute non-business income, shall be allocated as provided in paragraphs (2), (3), (4), and (5) of this subsection.

(2)(A) Net rents and royalties from real property located in the District are allocable to the District.

(B) Net rents and royalties from tangible personal property are allocable to the District:

(i) If and to the extent that the property is utilized in the District; or

(ii) In their entirety if the taxpayer's commercial domicile is in the District and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(C) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere

during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(3)(A) Capital gains and losses from sales of real property located in the District are allocable to the District.

(B) Capital gains and losses from sales of tangible personal property are allocable to the District if:

(i) The property had a situs in the District at the time of the sale; or

(ii) The taxpayer's commercial domicile is in the District and the taxpayer is not taxable in the state in which the property had a situs.

(C) Capital gains and losses from the sales of intangible personal property are allocable to the District if the taxpayer's commercial domicile is in the District.

(4) Interest and dividends from District sources are allocable to the District unless the interest and dividends are excluded under § 47-1810.1.

(5)(A) Patent and copyright royalties are allocable to the District:

(i) If and to the extent that the patent or copyright is utilized by the payer in the District; or

(ii) If and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in the District.

(B) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(C) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(d) *Apportionment of business income.* — All business income shall be apportioned to the District by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

(e) *Property factor.* — (1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the District during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals.

(3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the Mayor may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(f) *Payroll factor*. — (1) The payroll factor is a fraction, the numerator of which is the total amount paid in the District during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(2) Compensation is paid in the District if:

(A) The individual's service is performed entirely within the District;

(B) The individual's service is performed both within and without the District, but the service performed without the District is incidental to the individual's service within the District; or

(C) Some of the service is performed in the District and:

(i) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the District; or

(ii) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the District.

(g) *Sales factor*. — (1) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the District during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(2) Sales of tangible personal property are in the District if:

(A) The property is delivered or shipped to a purchaser within the District regardless of the f.o.b. point or other conditions of the sale; or

(B) The property is shipped from an office, store, warehouse, factory, or other place of storage in the District and (i) the purchaser is the United States government, or (ii) the taxpayer is not taxable in the state of the purchaser.

(3) Sales, other than sales of tangible personal property, are in the District if:

(A) The income-producing activity is performed in the District; or

(B) The income-producing activity is performed both in and outside the District and a greater proportion of the income-producing activity is performed in the District than in any other state, based on costs of performance.

(h) *Alternative methods*. — If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in the District, the taxpayer may petition for or the Mayor may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any 1 or more of the factors;

(3) The inclusion of 1 or more additional factors that will fairly represent the taxpayer's business activity in the District; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(i) *Definition*. — For purposes of this section, the term "state" shall include the District of Columbia.

(j) *Construction.* — This section shall be so construed as to effectuate its general purpose to make uniform the law of those states that enact it. (July 16, 1947, 61 Stat. 349, ch. 258, art. I, title X, § 2; 1973 Ed., § 47-1580a; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 106(b), 27 DCR 3509; July 24, 1982, D.C. Law 4-131, §§ 103, 108(a), (b), 29 DCR 2418; Feb. 28, 1987, D.C. Law 6-207, § 3, 34 DCR 677; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-1142, 1-1149, 47-1803.3, 47-1805.2, 47-1807.1 and 47-1808.2.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 6-207. — Law 6-207, the "D.C. Income and Franchise, and Sales Taxes Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-95, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-267 and transmitted to both Houses of Congress for its review.

Passage of title useful in determining whether taxpayer in business. — In determining whether a taxpayer is carrying on a trade or business solely within the District for District franchise tax purposes, the passage of title is useful as a gauge but is not solely determinative of the source of income. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

But not fact that no jurisdiction has taxed taxpayer. — That no other jurisdiction has seen fit to tax a taxpayer as doing business therein is not persuasive that the taxpayer's business is solely within the District for District franchise tax purposes. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

Section 47-1807.1 envisions situation where revenue of corporation comes from varied sources and can be separated into more than a single stream. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

Operating net income from the advertising and circulation of newspaper must be apportioned between its District and non-District sources. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

And federal sales apportionable on same basis as private sales. — Sales of tangible personal property to the United States by a

corporation having its principal place of business in the District are apportionable on the same basis as sales of like property to private customers. *District of Columbia v. Gallant, Inc.*, 305 F.2d 761 (D.C. Cir. 1962).

No particular formula directed in calculating franchise tax. — The Congressional intent is not to direct the use of any particular formula in calculating the franchise tax. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

And regulations need not be based on federal provisions. — Under § 47-1807.1 et seq., the Congressional intent is not to direct that the District base its regulations on those promulgated under the federal statute. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

But Mayor may select most appropriate formula. — The Mayor has the discretion to select the most appropriate formula for apportioning that part of a corporate taxpayer's net income which is fairly attributable to business carried on in the District. *District of Columbia v. Gallant, Inc.*, 290 F.2d 745 (D.C. Cir. 1961).

And there is no implied prohibition against the use of the sales factor of a taxpayer alone in making the apportionment. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

But circulation test not exclusive to all publications. — The circulation test is not the exclusive apportionment formula, for District income tax purposes, as to all types of publications carried on partly within and partly outside the District. *Broadcasting Publications, Inc. v. District of Columbia*, 313 F.2d 554 (D.C. Cir. 1962).

Rents and royalties from nonoperating District activities should be specifically allocated to District in computing the District franchise tax. *District of Columbia v. Evening Star Newspaper Co.*, 273 F.2d 95 (D.C. Cir. 1959).

District may not use single sales factor in apportioning business income of a company that conducts business both within and without the District. *District of Columbia v. Pierce Assocs.*, App. D.C., 462 A.2d 1129 (1983).

District may not treat operation of apartment complexes as unitary business.

— The District's decision to tax the income of an apartment complex located within the District and operated by a corporation which also operated a separate apartment complex outside the District by applying the 3-factor formula to both complexes as a unitary business was improper and effectively burdened interstate commerce in violation of the commerce clause. *McLean Gardens Corp. v. District of Columbia*, 111 WLR 785 (Super. Ct. 1983).

Regulation not retroactive. — A regulation promulgated under § 47-1807.1 et seq., is not applicable to taxable years prior to its adoption. *District of Columbia v. RCA*, 232 F.2d 376 (D.C. Cir.), cert. denied, 352 U.S. 845, 77 S. Ct. 44, 1 L. Ed. 2d 51 (1956); *District of Columbia v. Southern Ry.*, 277 F.2d 84 (D.C. Cir. 1960).

Apportionment formula valid. — The apportionment formula contained in the 1948 regulations to govern the computation of the franchise tax is valid. *District of Columbia v. RCA*, 232 F.2d 376 (D.C. Cir.), cert. denied, 352 U.S. 845, 77 S. Ct. 44, 1 L. Ed. 2d 51 (1956).

Taxpayer must exhaust administrative remedy. — Where a taxpayer fails to show that he has exhausted the administrative remedy, he is not entitled to ask the court to hold that his assessments are invalid and erroneous. *Smoot Sand & Gravel Corp. v. District of Columbia*, 261 F.2d 758 (D.C. Cir. 1958), cert. denied, 359 U.S. 968, 79 S. Ct. 876, 3 L. Ed. 2d 834 (1959).

And must show double franchise taxation. — The burden is on the corporate tax-

payer to show by specific evidence that double taxation will result from the application of the formula used for imposing the franchise tax. *District of Columbia v. GMC*, 336 F.2d 885 (D.C. Cir. 1964), rev'd on other grounds, 380 U.S. 553, 85 S. Ct. 1156, 14 L. Ed. 2d 68 (1965).

Court may determine income without regulatory formula. — The court is not precluded, by lack of a regulatory formula, from determining the income fairly attributable to the District for franchise tax purposes. *District of Columbia v. Gallant, Inc.*, 290 F.2d 745 (D.C. Cir. 1961).

But courts may not substitute a franchise tax formula for that adopted by the District. *District of Columbia v. GMC*, 336 F.2d 885 (D.C. Cir. 1964), rev'd on other grounds, 380 U.S. 553, 85 S. Ct. 1156, 14 L. Ed. 2d 68 (1965).

And use of single-factor formula constitutional. — The use of a single-factor formula for determining the franchise tax upon a business conducted both within and without the District is not inherently arbitrary or unreasonable. *District of Columbia v. GMC*, 336 F.2d 885 (D.C. Cir. 1964), rev'd on other grounds, 380 U.S. 553, 85 S. Ct. 1156, 14 L. Ed. 2d 68 (1965).

Cited in *Industrial Coverall Laundry Corp. v. District of Columbia*, 188 F.2d 669 (D.C. Cir. 1951); *Thomas Paper Stock Co. v. District of Columbia*, 255 F.2d 180 (D.C. Cir. 1958); *GMC v. District of Columbia*, 380 U.S. 553, 85 S. Ct. 1156, 14 L. Ed. 2d 68 (1965); *May Dep't Stores Co. v. District of Columbia*, 364 F.2d 689 (D.C. Cir. 1966).

§ 47-1810.3. Distribution, apportionment, or allocation of income or deductions between or among organizations, trades, or businesses.

In any of 2 or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the District, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Mayor is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, whenever in his opinion such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses. The provisions of this section shall apply, but shall not be limited in application, to any case of a common carrier by railroad subject to the Interstate Commerce Act and jointly owned or controlled directly or indirectly by 2 or more common carriers by railroad subject to said Act. (July 16, 1947, 61 Stat. 349, ch. 258, art. I, title X, § 3; 1973 Ed., § 47-1580b; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-1142, 1-1149, 47-1803.3, 47-1805.2, 47-1807.1, and 47-1808.2.

Legislative history of Law 2-158. — See note to § 47-1801.4.

References in text. — The Interstate Commerce Act, referred to in the second sentence in

this section, is 24 Stat. 379, ch. 104, approved February 4, 1887, which was repealed by 92 Stat. 1337, Pub. L. 95-473, approved October 17, 1978. This latter Act also enacted the Revised Interstate Commerce Act, which is classified to 49 U.S.C. § 10102 et seq.

Subchapter XI. Bases.

§ 47-1811.1. Disposition of property — Basis for determination of gain or loss.

The basis for determining the gain or loss from the sale or other disposition of property shall be the same basis as that provided for determining gain or loss under the Internal Revenue Code of 1986. (July 16, 1947, 61 Stat. 350, ch. 258, art. I, title XI, § 1; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 601(c)(1); 1973 Ed., § 47-1583; June 24, 1987, D.C. Law 7-9, § 2(k), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(k)(1), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Cited in Simpson Mem. Methodist Church v. District of Columbia, 199 F.2d 169 (D.C. Cir. 1952); Verkouteren v. District of Columbia, 433 F.2d 461 (D.C. Cir. 1969).

§ 47-1811.2. Same — Determination of gain or loss.

The gain or loss, as the case may be, from the sale or other disposition of property, including the amount realized and the amount recognized, shall be determined in the same manner provided for the determination of gain or loss for federal income tax purposes under the Internal Revenue Code of 1986. (July 16, 1947, 61 Stat. 350, ch. 258, art. I, title XI, § 2; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 601(c)(2)(A), (B); 1973 Ed., § 47-1583a; June 24, 1987, D.C. Law 7-9, § 2(l), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(k)(2), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

"Sale" defined. — The word "sale," as used in this section, is to be given its ordinary meaning of a transfer of property for cash. Borden v. District of Columbia, App. D.C., 417 A.2d 402 (1980).

Taxpayer's intent and transaction's sub-

stance important in determining taxable event. — In determining whether a disposition of stock constitutes a taxable event, the intent of the taxpayer, and the substance of the transaction as a whole, are of paramount importance. Borden v. District of Columbia, App. D.C., 417 A.2d 402 (1980).

Cited in Verkouteren v. District of Columbia, 433 F.2d 461 (D.C. Cir. 1969).

§ 47-1811.3. Bases — Property dividends.

Where any property other than money is paid by a corporation as a dividend, the base to the recipient thereof shall be the market value of such property at

the time of its distribution by such corporation. (July 16, 1947, 61 Stat. 351, ch. 258, art. I, title XI, § 4; 1973 Ed., § 47-1583c; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cited in *Verkouteren v. District of Columbia*, 433 F.2d 461 (D.C. Cir. 1969).

§ 47-1811.4. Same — Determination of depreciation deduction.

The basis used in determining the amount allowable as a deduction from gross income under the provisions of § 47-1803.3(a)(7) shall be the same basis as that provided for determining the gain from the sale or other disposition of property for federal income tax purposes under the Internal Revenue Code of 1986. (July 16, 1947, 61 Stat. 351, ch. 258, art. I, title XI, § 6; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 601(c)(4); 1973 Ed., § 47-1583e; June 24, 1987, D.C. Law 7-9, § 2(m), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(k)(3), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1803.3.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Basis should allow taxpayer to recover investment. — The basis for a reasonable depreciation allowance is one which will enable the taxpayer to recover his investment. *Lenkin v. District of Columbia*, 461 F.2d 1215 (D.C. Cir. 1972).

And distributees on corporation's liquidation may include corporation's unsecured debts. — The distributees on a complete liquidation of a corporation may include in their depreciation basis their proportionate

part of the corporation's unpaid unsecured debts, whether or not they make themselves personally liable for the debts. *Lenkin v. District of Columbia*, 461 F.2d 1215 (D.C. Cir. 1972).

But basis of property received in dissolution cannot exceed earned surplus account. — Where a taxpayer receives real property in a corporate dissolution, the proper depreciation basis of these properties cannot exceed the total of the taxpayer's interest in the earned surplus account at the time of the dissolution. *Oppenheimer v. District of Columbia*, 363 F.2d 708 (D.C. Cir. 1966).

Cited in *Snow v. District of Columbia*, 361 F.2d 523 (D.C. Cir. 1965).

Subchapter XII. Assessment and Collection; Time of Payment.

§ 47-1812.1. General duties of Mayor.

The Mayor is hereby required to administer the provisions of this chapter. As soon as practicable after the return is filed, the Mayor shall examine it and shall determine the correct amount of tax. (July 16, 1947, 61 Stat. 352, ch. 258, art. I, title XII, § 1; 1973 Ed., § 47-1586; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

Cited in *Floyd E. Davis Mtg. Corp. v. District of Columbia*, App. D.C., 455 A.2d 910 (1983).

§ 47-1812.2. Records and statements.

Every person upon whom the duty is imposed by this chapter to file any applications, returns, or reports or who is liable for any tax imposed by this chapter shall keep such records, render under oath such statements, and comply with such rules and regulations as the Mayor from time to time may prescribe. Whenever the Mayor deems it necessary, he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as he believes sufficient to show whether or not such person is liable to tax under this chapter and the extent of such liability. (July 16, 1947, 61 Stat. 352, ch. 258, art. I, title XII, § 2; 1973 Ed., § 47-1586a; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1812.3. Examination of books and witnesses; failure to obey summons or permit examination; prosecutions.

The Mayor, for the purpose of ascertaining the correctness of any return filed hereunder, or for the purpose of making an estimate of the taxable income of any taxpayer, is authorized to examine any books, papers, records, or memoranda of any person bearing upon the matters required to be included in the return and may summon any person to appear and produce books, records, papers, or memoranda bearing upon the matters required to be included in the return, and to give testimony or answer interrogatories under oath respecting the same, and the Mayor shall have power to administer oaths to such person or persons. Such summons may be served by any member of the Metropolitan Police Department. If any person having been personally summoned shall neglect or refuse to obey the summons issued as herein provided, then, and in that event, the Mayor may report that fact to the Superior Court of the District of Columbia, or one of the judges thereof, and said Court, or any judge thereof, hereby is empowered to compel obedience to such summons to the same extent as witnesses may be compelled to obey the subpoenas of that Court. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in such returns, who shall refuse to permit the examination by the Mayor or any person designated by him of any such books, papers, records, or memoranda, or who shall obstruct or hinder the Mayor or any person designated by him in the examination of any books, papers, records, or memoranda, shall upon conviction thereof be fined not more than \$300. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia or any of his assistants in the name of the District of Columbia. (July 16, 1947, 61 Stat. 352, ch. 258, art. I, title XII, § 3; June 25, 1948, 62 Stat. 991, ch. 646, § 32(a), (b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570,

573, Pub. L. 91-358, title I, § 155(a), (c)(51); 1973 Ed., § 47-1586b; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1812.4. Duty of Mayor to make return.

If any person fails to make and file a return at the time prescribed by law or by regulations made under authority of law, or makes, willfully or otherwise, a false or fraudulent return, the Mayor shall make the return from his own knowledge and from such information as he can obtain through testimony or otherwise. Any return so made and subscribed by the Mayor shall be prima facie good and sufficient for all legal purposes. (July 16, 1947, 61 Stat. 352, ch. 258, art. I, title XII, § 4; 1973 Ed., § 47-1586c; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1812.5. Determination of deficiency; protest by taxpayer; hearing; determination of taxable income; effect thereof.

If a deficiency in tax is determined by the Mayor, the taxpayer shall be notified thereof and given a period of not less than 30 days, after such notice is sent by registered mail or by certified mail, in which to file a protest and show cause or reason why the deficiency should not be paid. Opportunity for hearing shall be granted by the Mayor, and a final decision thereon shall be made as quickly as practicable. The Mayor may determine the gross income, adjusted gross income, and any itemized deductions necessary to arrive at the taxpayer's proper taxable income. Any assessment made or proposed on the basis of such determinations shall be deemed prima facie correct. Any assessment, compromise, closing agreement, settlement, adjustment, ruling, or other determination of the individual's, estate's, or trust's income or status for federal income tax purposes made or proposed by the Internal Revenue Service, or other competent federal authority, shall not be binding or deemed controlling on the Mayor, the courts, or such taxpayers in determining their taxable income for District income and franchise tax purposes. (July 16, 1947, 61 Stat. 352, ch. 258, art. I, title XII, § 5; June 11, 1960, 74 Stat. 203, Pub. L. 86-507, § 1(54); 1973 Ed., § 47-1586d; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; June 11, 1982, D.C. Law 4-118, § 115, 29 DCR 1770; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to receipt of certified mail return receipts as prima facie evidence of delivery, see § 14-506.

Section references. — This section is re-

ferred to in §§ 47-1806.6, 47-1812.7, 47-1812.11, and 47-1815.1.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Notice of deficiency is different from an assessment. — This section obviously contemplates that an assessment is to be made after

the notice of deficiency has been issued, after the taxpayer has filed a protest, and after any hearing has been held.

Cited in *Floyd E. Davis Mtg. Corp. v. District of Columbia*, App. D.C., 455 A.2d 910 (1983).

§ 47-1812.6. Jeopardy assessment.

(a) *Authority to assess; payment.* — If the Mayor believes that the collection of any tax imposed by this chapter will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties, the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Mayor for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful.

(b) *Bond to stay collection.* — The collection of the whole or any part of the amount of such assessment may be stayed by filing with the Mayor a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the Mayor deems necessary, conditioned upon the payment of the amount the collection of which is stayed, at the time at which, but for this section, such amount would be due. (July 16, 1947, 61 Stat. 353, ch. 258, art. I, title XII, § 6; 1973 Ed., § 47-1586e; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

Cited in *Hobson v. District of Columbia*, App. D.C., 686 A.2d 194 (1996).

§ 47-1812.7. Payment of tax.

(a)(1) *Time of payment.* — Except as provided in paragraph (2) of this subsection, the total amount of tax due as shown on the taxpayer's return is due and payable in full at the time prescribed in this subchapter for the filing of such return.

(2) *Individual income taxes.* — Any amount of individual income tax due, in excess of that withheld or remitted by way of a declaration of estimated tax, is due and payable in full at the time prescribed in this chapter for filing an income tax return.

(3) *Deficiencies.* — Any deficiency in any tax imposed by this chapter, determined by the Mayor under the provisions of § 47-1812.5 shall be due and payable within 10 days from the date of the assessment.

(4) *Employers.* — Every employer required to deduct and withhold tax under this chapter shall make a return of, and pay to the District, the tax required to be withheld under this chapter such periods and at such times as the Mayor may prescribe.

(5) *Jeopardy payments.* — If the Mayor, in any case, has reason to believe that the collection of the tax provided for in paragraph (4) of this subsection is in jeopardy, he may require the employer to make such a return and pay such tax at any time.

(6) *Estimated tax.* — The estimated tax provided for in this chapter shall be paid as follows:

(A) If the declaration is filed on or before April 15th of the taxable year, the estimated tax shall be paid in 4 equal installments. The first installment shall be paid at the time of the filing of the declaration; the 2nd and 3rd on June 15th and September 15th, respectively, of the taxable year; and the 4th on January 15th of the succeeding taxable year;

(B) If the declaration is filed after April 15th and not after June 15th of the taxable year and is not required by this chapter to be filed on or before April 15th of the taxable year, the estimated tax shall be paid in 3 equal installments. The first installment shall be paid at the time of the filing of the declaration; the 2nd on September 15th of the taxable year; and the 3rd on January 15th of the succeeding taxable year;

(C) If the declaration is filed after June 15th and not after September 15th of the taxable year and is not required by this chapter to be filed on or before June 15th of the taxable year, the estimated tax shall be paid in 2 equal installments. The first installment shall be paid at the time of the filing of the declaration, and the 2nd on January 15th of the succeeding taxable year;

(D) If the declaration is filed after September 15th of the taxable year, and is not required by this chapter to be filed on or before September 15th of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration; and

(E) If the declaration is filed after the time prescribed in this chapter, including cases where extensions of time have been granted, subparagraphs (B), (C), and (D) of this paragraph shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in this chapter, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(7) *Amendment of declaration.* — If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15th of the taxable year any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(8) *Application to fiscal year basis.* — In the application of paragraphs (4), (5), (6) and (7) of this subsection to taxpayers reporting income on a fiscal year basis, there shall be substituted for the dates specified therein, the months corresponding thereto.

(b) *Extension of time.* — At the request of the taxpayer the Mayor may extend the time for payment by the taxpayer of the amount determined as the tax for a period not to exceed 6 months from the date prescribed for the payment of the tax or an installment thereof; provided, however, that where the time for filing a return is extended for a period exceeding 6 months under the provisions of § 47-1805.3(b), the Mayor may extend the time for payment of the tax, or the first installment thereof, to the same date to which he has

extended the time for filing the return. In such case the amount in respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) *Voluntary advance payment.* — A tax imposed by this chapter, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment. (July 16, 1947, 61 Stat. 353, ch. 258, art. I, title XII, § 7; Mar. 31, 1956, 70 Stat. 71, ch. 154, § 10; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 201; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 203(a); 1973 Ed., § 47-1586f; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 502(a), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 104, 29 DCR 2418; Apr. 9, 1997, D.C. Law 11-199, § 103(a), 43 DCR 4569; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271.)

Section references. — This section is referred to in § 47-1813.5.

Effect of amendments. — Section 103(a) of D.C. Law 11-198 substituted “on a quarterly basis at such quarterly intervals” for “for such periods and at such times” in (a)(4).

D.C. Law 11-255 repealed § 103(a) of D.C. Law 11-198.

This section is set out above with the language changed by D.C. Law 11-198 restored to read as it did prior to that amendment.

Emergency act amendments. — For temporary amendment of section, see § 105(a) of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

Section 1001 of D.C. Act 11-302 provides for application of the act.

For temporary repeal of § 103(a) of D.C. Act 11-360, see § 2(c) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective April 9, 1997.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

§ 47-1812.8. Withholding of tax.

(a) *Income of foreign corporations or unincorporated business.* — Whenever the Council of the District of Columbia shall deem it necessary in order to satisfy the District’s claim for a tax payable by any foreign corporation or unincorporated business, it may, by rules and regulations, require any person subject to the jurisdiction of the District to withhold and pay to the Mayor an amount not in excess of 5% of all income payable by such person to such foreign corporation or unincorporated business. After such foreign corporation or unincorporated business shall have filed all returns required under this

subchapter, and the same shall have been audited, the Mayor shall refund any overpayment to the taxpayer.

(b) *Wages; method of determination.* — (1) Every employer making payment of wages on or after October 1, 1956, to any employee as defined in this chapter, shall deduct and withhold a tax upon such wages, such tax to be determined by one of the following methods, to be elected by the employer, subject to the approval of the Mayor, with respect to any employee:

(A) In accordance with a percentage method of withholding similar in principle to that under § 3402 of the Internal Revenue Code of 1986 (§ 3402 of Title 26, United States Code), to be included in regulations;

(B) In accordance with tables similar in principle to those contained in § 3402 of the Internal Revenue Code of 1986, to be included in regulations;

(C) [Repealed]; or

(D) By such other method as may be prescribed in regulations.

(2)(A) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(B) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1st of such year, whichever is the later.

(C) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(D) The Council of the District of Columbia may, by regulations, authorize employers:

(i) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(ii) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(iii) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount that would be required to be deducted and withheld during such quarter if the payroll period of the employee were quarterly.

(E) The Council of the District of Columbia is authorized to provide by regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under this section in cases in which the employer and the employee agree to such additional withholding.

Such additional withholding shall for all purposes be considered the tax required to be deducted and withheld under this section.

(c) *Overlapping pay periods; multiple employers.* — (1) If payment of wages is made to an employee by an employer:

(A) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer;

(B) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer;

(C) With respect to a period beginning in 1 and ending in another calendar year; or

(D) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee.

(2) The manner of withholding and the amount to be deducted and withheld under this section shall be determined in accordance with regulations promulgated by the Council of the District of Columbia under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

(d) *Included and excluded wages.* — If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

(e) *Exemptions.* — (1) An employee receiving wages shall on any day be entitled to the withholding exemptions allowed under this chapter.

(2) Every employee shall, on or before October 1, 1956, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before October 1, 1956, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1st or July 1st of each

year, which occurs at least 30 days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the exemptions to which the employee is entitled on such day, the employee shall in such cases and at such times as the Mayor may prescribe, furnish the employer with a withholding exemption certificate relating to the exemptions which he claims with respect to such next taxable year, which shall in no event exceed the exemptions to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the withholding exemptions to which the employee is entitled is less than the withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within 10 days thereafter, furnish the employer with a new withholding exemption certificate relating to the withholding exemptions which the employee then claims, which shall in no event exceed the exemptions to which he is entitled on such day. If, on any day during the calendar year, the withholding exemptions to which the employee is entitled is greater than the withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the withholding exemptions which the employee then claims, which shall in no event exceed the exemptions to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the Council of the District of Columbia may by regulations prescribe.

(8) An employee shall be entitled to additional withholding exemptions under this subsection with respect to payment of wages equal to a number determined by dividing by \$885 for taxable years beginning after December 31, 1986, \$1,025 for taxable years beginning after December 31, 1987, \$1,160 for taxable years beginning after December 31, 1988, \$1,270 for taxable years beginning after December 31, 1989, and \$1,370 for taxable years beginning after December 31, 1990, the excess of:

(A) His or her estimated itemized deductions; over

(B) The applicable standard deduction amount specified in § 47-1801.4(26).

(f) *Failure to withhold or pay amounts withheld.* — (1) Every employer, who fails to withhold or pay to the Mayor any sums required by this section to be withheld and paid, shall be personally and individually liable therefor to the District of Columbia; and any sum or sums withheld in accordance with the provisions of this section shall be deemed to be, and shall be, held in trust by the employer for the District of Columbia.

(2) The District of Columbia shall have a lien upon all the property of any employer who fails to withhold or pay over to the Mayor sums required to be withheld under this section. If the employer withholds but fails to pay over the amounts withheld to the Mayor the lien shall accrue on the date the amounts

were withheld. If the employer fails to withhold, the lien shall accrue on the date the amounts were required to be withheld. The liens referred to in this paragraph shall constitute a preferred claim, having priority over all other liens or security interests of whatever kind and however created. If property of an employer is seized under distraint provisions, neither the United States Marshal, nor a receiver, assignee or any other officer shall sell the property without first determining from the Mayor the amounts due and payable by said employer, and if there be any amounts due, owing or unpaid, it shall be the duty of such officer to first pay to the Mayor the said amounts out of the proceeds of such sale before making any payment to any judgment creditor or other claimants of whatsoever kind or nature.

(g) *Statement to be furnished employee.* — (1)(A) Every person required to deduct and withhold from an employee a tax under this section, or who would have been required to deduct and withhold a tax under this section if the employee had claimed no more than 1 withholding exemption, shall furnish to each such employee in respect to the wages paid by such person to such employee during the calendar year, on or before January 31st of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the following:

- (i) The name and address of such person;
- (ii) The name and address of the employee and his social security account number;
- (iii) The total amount of wages as defined in this chapter; and
- (iv) The total amount deducted and withheld as tax under this section.

(B) The statement required to be furnished by this subsection in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form, as the Council of the District of Columbia may by regulation prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the Council of the District of Columbia shall constitute the return required to be made in respect to such wages.

(2) The Council of the District of Columbia may promulgate regulations providing for reasonable extensions of time, not in excess of 30 days, to employers required to furnish statements under this subsection.

(h) *Liability for tax withheld.* — An employer shall be liable for the payment of tax required to be deducted and withheld under this section. Such tax shall be paid to the Mayor and shall not be paid to any other person.

(i) *Declaration and payment of estimated tax.* — (1) Every person residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at these times, make declaration of his or her estimated tax for the taxable year if the person can reasonably be expected to receive gross income not subject to the withholding provisions of this section that will result in a tax liability of more than \$100. This requirement shall not apply to any elective officer of the government of the United States, or any employee on the staff of an elected officer in the legislative branch of the government of the

United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government whose appointment to the office held by him or her was by the President of the United States, and subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States unless the officers or Justices are domiciled within the District at any time during the taxable year.

(2) In the declaration required under paragraph (1) of this subsection, the individual shall state:

(A) The amount which he estimates as the amount of income tax due under this chapter for the taxable year;

(B) The amount which he estimates as the credit for tax withheld for the taxable year under this chapter;

(C) The excess of the amount estimated under subparagraph (A) of this paragraph over the amount estimated under subparagraph (B) of this paragraph, which excess for purposes of this section shall be considered the estimated tax for the taxable year; and

(D) Such other information as may be prescribed in regulations promulgated by the Council of the District of Columbia.

(3) In the case of a husband and wife, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if the husband and wife are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either husband or wife, or may be divided between them.

(4) The declaration required under paragraph (1) of this subsection shall be filed with the Mayor on or before April 15th of the taxable year, except that if the requirements of paragraph (1) of this subsection are first met: (A) after April 1st and before June 2nd of the taxable year, the declaration shall be filed on or before June 15th of the taxable year; (B) after June 1st and before September 2nd of the taxable year, the declaration shall be filed on or before September 15th of the taxable year; or (C) after September 1st of the taxable year, the declaration shall be filed on or before January 15th of the succeeding taxable year; provided, that the declaration required to be filed during 1956 may be filed not later than October 15, 1956, if the requirements of paragraph (1) of this subsection are fulfilled at any time prior to October 1, 1956.

(5) An individual may make amendments of a declaration filed during the taxable year under this subsection, under regulations prescribed by the Council of the District of Columbia.

(6) If on or before January 15th of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then under regulations prescribed by the Council of the District of Columbia:

(A) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15th, such return shall, for the purposes of this section, be considered as such declaration; and

(B) If the tax shown on the return, reduced by the credits under this chapter, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by this subsection to be filed on or before such January 15th.

(7) The Council of the District of Columbia may promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extensions shall be for more than 6 months.

(8) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(9) The provisions of § 47-1805.4 shall apply to a declaration of estimated tax. (10) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year.

(j) *Liability for 1956 tax.* — One-half of the liability for the income tax imposed by this chapter for the calendar year 1956, or the fiscal year of a taxpayer beginning during such calendar year, upon any resident of the District (other than fiduciaries) shall be discharged. The remainder of the total amount of the income tax due as shown on the taxpayer's return shall be paid to the Collector on the 15th of April, 1957, or if the return be made on the basis of a fiscal year the remainder of the total amount of such tax shall be paid on the 15th day of the 4th month following the close of the fiscal year.

(k) *Rate of interest.* — Notwithstanding any other provisions of this chapter, interest shall be assessed on deficiencies and late payments of income tax withheld or required to be withheld at source by an employer as provided for in this section at the rate of one and one half percent per month or fraction thereof from the date prescribed for payment of the tax until paid. (July 16, 1947, 61 Stat. 353, ch. 258, art. I, title XII, § 8; Mar. 31, 1956, 70 Stat. 72-77, ch. 154, § 11; Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-554, § 8(a); 1973 Ed., § 47-1586g; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 502(b), 27 DCR 3390; June 11, 1982, D.C. Law 4-118, § 116, 29 DCR 1770; July 24, 1982, D.C. Law 4-131, §§ 105, 108(c), (d), 29 DCR 2418; June 24, 1987, D.C. Law 7-9, § 2(n), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(l)(1)-(3), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(d), (e), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1812.11.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 7-9. — See note to § 47-1801.4.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-141. — See note to § 47-1801.4.

Lien arises when taxes withheld. — Alien arises without further action being taken at the time when the income tax is or should be withheld. *District of Columbia v. Hechinger Properties Co.*, App. D.C., 197 A.2d 157 (1964).

Lien arising by force of this section is fully and instantly perfected. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

And superior to all liens subsequently perfected. — Since a withholding tax lien is perfected as soon as it arises, it is therefore

superior to all liens subsequently perfected. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

District need not file certificate of delinquent withholding taxes in order to establish its claim for satisfaction out of the employer's property. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

Cited in *Drabkin v. District of Columbia*, 824 F.2d 1102 (D.C. Cir. 1987).

§ 47-1812.9. Lien liability.

Every tax imposed by this chapter and all increases, interest, and penalties thereon, shall constitute, from the time it is due and payable, a lien having priority over all other liens secured or otherwise. Any unsatisfied claims assessed under this chapter, shall become a personal debt of the persons liable to pay the same to the District. Taxes levied under this chapter, and the interest and penalties thereon, shall be collected in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection. (July 16, 1947, 61 Stat. 353, ch. 258, art. I, title XII, § 9; 1973 Ed., § 47-1586h; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; July 24, 1982, D.C. Law 4-131, § 106, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Priority of unsecured tax claims over

unsecured private claims. — This section provides only that unsecured claims for income and franchise taxes take priority over the unsecured claims of private creditors. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

§ 47-1812.10. Period of limitation upon assessment and collection.

(a) *In general.* — Except as provided in subsections (b), (c), (d) and (e) of this section:

(1) The amount of income or franchise tax, or both, imposed by this chapter shall be assessed within 10 years after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period;

(2) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 12 months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 10 years after the return is filed. This subsection shall not apply in the case of a corporation unless:

(A) Such written request notifies the Mayor that the corporation contemplates dissolution at or before the expiration of such 12-month period; and

(B) The dissolution is in good faith begun before the expiration of such 12-month period; and

(C) The dissolution is completed; and

(3) If the taxpayer omits from gross income an amount properly includable therein which is in excess of 25% of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 12 years after the return was filed.

(a-1) *Filing.* — For the purposes of paragraphs (1), (2), and (3) of subsection (a), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(b) *False or fraudulent return or failure to file.* — In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *Written extensions.* — Where before the expiration of the time prescribed in subsection (a) of this section for the assessment of the tax, both the Mayor and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) *Collection after assessment.* — Where the assessment of any income or franchise tax, or both, imposed by this chapter has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within 10 years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Mayor and the taxpayer before the expiration of such 10-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(e) *Change or correction of taxable income.* — (1) If the amount of taxable income for any taxable year or part thereof of any taxpayer as declared by such taxpayer or his duly authorized agent to the United States Treasury Department for federal income tax purposes is changed or corrected by the Commissioner of Internal Revenue, or by any court of the United States, or by any court of the District of Columbia or if the amount of taxable income for any taxable year or part thereof of any taxpayer as declared by such taxpayer or his duly authorized agent to the District of Columbia for District of Columbia income or franchise tax purposes is changed or corrected by any court of the United States or by any court of the District of Columbia, such taxpayer or his duly authorized agent shall, within 90 days after such change or correction is finally determined, report in writing such changed or corrected taxable income to the District of Columbia. The Mayor or his duly authorized representative may within 180 days from the date of the receipt of written notice from the taxpayer or his duly authorized agent of such changed or corrected taxable income as finally determined, assess or reassess the amount of any tax imposed by this chapter; provided, however, that, in the event the date of

receipt by the District of Columbia of a notice from the taxpayer or his duly authorized agent is more than 180 days prior to the expiration of the applicable period of limitations provided for in subsection (a) of this section, the Mayor or his duly authorized representative shall have until the expiration of such applicable period to assess or reassess the amount of any tax imposed by this chapter. Failure to report such changed or corrected taxable income as finally determined within the time stated herein shall suspend the running of the period of limitation for a period of 180 days after the date such report from the taxpayer or his duly authorized agent is received by the District of Columbia.

(2) For the purposes of this subsection, the term "finally determined" means any irrevocable determination or adjustment of the taxpayer's liability for tax, from which there exists no further right of appeal or review, either administrative or judicial. This subsection shall apply with respect to taxable years beginning on or after January 1, 1975. (July 16, 1947, 61 Stat. 354, ch. 258, art. I, title XII, § 10; May 27, 1949, 63 Stat. 132, ch. 146, title IV, § 417; 1973 Ed., § 47-1586i; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 28, 1979, D.C. Law 3-21, § 2, 26 DCR 386; June 11, 1982, D.C. Law 4-118, § 117, 29 DCR 1770; Oct. 1, 1987, D.C. Law 7-29, § 2(l)(4), 34 DCR 5097; Apr. 9, 1997, D.C. Law 11-198, § 103(b), 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Section 103(b) of D.C. Law 11-198 substituted "10 years" for "3 years" in (a)(1), (a)(2), and (d); substituted "12 years" for "5 years" in (a)(3); and substituted "10-year period" for "3-year period" in (d).

Temporary amendment of section. — Section 102 of D.C. Law 11-226 amended (a)(1), the introductory paragraph of (a)(2), (a)(3) and (d) to read as follows:

"(a) In general. Except as provided in subsections (b), (c), (d) and (e) of this section:

"(a)(1) The amount of income or franchise tax, or both, imposed by this chapter shall be assessed within 10 years after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period;

"(a)(2) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 12 months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 10 years after the return is filed. This subsection shall not apply in the case of a corporation unless:

"(a)(3) If the taxpayer omits from gross income an amount properly includable therein

which is in excess of 25 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 12 years after the return was filed;

"(d) Collection after assessment. Where the assessment of any income or franchise tax, or both, imposed by this chapter has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun: (1) Within 10 years after the assessment of the tax or; (2) prior to the expiration of any period for collection agreed upon in writing by the Mayor and the taxpayer before the expiration of such 10-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 105(b) of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25,

1996, 43 DCR 4181), § 102 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 102 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

Section 1001 of D.C. Act 12-2 provides for application of the act.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-21. — Law 3-21, the "District of Columbia Income and Franchise Tax Statute of Limitations Extension Act of 1979," was introduced in Council and assigned Bill No. 3-132, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 5, 1979 and June 19, 1979, respectively. Signed by the Mayor on July 12, 1979, it was assigned Act No. 3-65 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 11-198. — See note to § 47-1812.7.

Legislative history of Law 11-226. — Law 11-226, the "Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Cited in *Bord v. District of Columbia*, 344 F.2d 560 (D.C. Cir. 1965); *Hobson v. District of Columbia*, App. D.C., 686 A.2d 194 (1996).

§ 47-1812.11. Credits and refunds for overpayments.

(a) *Taxpayers.* — (1) Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment may be credited against any liability in respect of any income or franchise tax or installment thereof (whether such tax was assessed as a deficiency or otherwise), on the part of the person who made the overpayment, and the balance shall be refunded to such person.

(2) No such credit or refund shall be allowed after 3 years from the time the tax was paid unless before the expiration of such period a claim therefor is filed by the taxpayer or such taxpayer is entitled to deduct a net operating loss carryback determined pursuant to § 47-1803.3(a)(14) and (b) and § 6511(d)(2) of the Internal Revenue Code of 1986, and no tax or part thereof which the Mayor may determine to have been an overpayment shall be refunded after the period prescribed therefor in the act appropriating the funds from which such refund would otherwise be made. The amount of such credit or refund shall not exceed the portion of the tax paid during the 3 years immediately preceding the filing of the claim, or if no claim was filed, then during the 3 years immediately preceding the allowance of the credit or refund, except that in the case of a credit or refund that results from a net operating loss carryback, the 3-year limitation shall not apply. Every claim for credit or refund must be in writing, under oath; must state the specific grounds upon which the claim is founded, and must be filed with the Mayor; provided, that if it shall be determined by the Mayor, the Superior Court of the District of Columbia, or any court that any part of any tax which was assessed as a deficiency under the provisions of § 47-1812.5 was an overpayment, interest shall be allowed and paid upon such overpayment at the rate provided for in § 47-3310(c) or portion of a month

from the date such overpayments were paid until the date of refund, and in addition thereto any interest upon such overpayment which was paid by the taxpayer shall be refunded.

(3)(A) Upon request, the Superior Court of the District of Columbia shall provide the Mayor with the names and any other available identifying information of individuals whom the Superior Court of the District of Columbia has determined are more than 60 days in arrears with court-ordered child support payments.

(B) For purposes of collecting an amount determined to be in default under federal student loan programs, the university shall provide the Mayor with the names and any other available identifying information of individuals whom the university has determined to be in default.

(C) For purposes of collecting an amount determined to be an overpayment of unemployment compensation, the Department of Employment Services, through its Director, shall provide the Mayor with the names and any other identifying information of individuals who the Director has determined to have received benefit overpayments.

(4)(A) The Mayor shall intercept the income tax refund of an individual who has been determined:

(i) To owe overdue child support, as defined in 42 U.S.C. § 666(e) for purposes of enforcing an order under any state plan approved under 42 U.S.C. § 651 et seq.;

(ii) To be in default under the provisions of federal student loan programs; or

(iii) To owe to the District a repayment for benefit overpayment under Chapter 1 of Title 46.

(B) A determination and notice of default under federal student loan programs shall be made as follows:

(i) The determination of whether an individual is in default under paragraph (3)(B) of this subsection shall be made pursuant to the National Direct Student Loan Program Regulations ("NDSLP Regulations") (34 C.F.R. 674.2; 46 Fed. Reg. 5241). The amount in default shall be limited to the defaulted principal amount outstanding, as defined in the NDSLP Regulations.

(ii) Immediately upon the university's determination that an individual is in default, the university shall provide that individual with written notice of its determination by registered mail. The individual shall have 10 days from receipt of the notice to inform the university of the individual's intention to contest the validity of the determination.

(iii) Upon receipt of notice that an individual intends to contest the validity of the university's determination, the university shall provide the individual with a hearing in accordance with the provisions of subchapter I of Chapter 15 of Title 1.

(C) Determination and notice of overpayment of unemployment compensation shall be made in accordance with the provisions of §§ 46-112, 46-113, and 46-120.

(4a)(A) The university shall provide the Mayor with the names and any other available identifying information of individuals whom the university has determined are in default under federal student loan programs.

(B) The determination of whether an individual is in default under subparagraph (A) of this paragraph shall be made under the National Direct Student Loan Program Regulations ("NDSLP Regulations"), promulgated January 19, 1981 (34 C.F.R. 674.2; 46 Fed. Reg. 5,241). The amount in default shall be limited to the defaulted principle amount outstanding, as defined in the NDSLP regulations.

(C) Immediately upon the university's determination that an individual is in default, the university shall provide that individual with written notice of its determination by registered mail. The individual shall have 10 days from receipt of the notice to inform the university of the individual's intention to contest the validity of the determination.

(D) Upon receipt of notice that an individual intends to contest the validity of the university's determination, the university shall provide the individual with a hearing in accordance with the provisions of subchapter I of Chapter 15 of Title 1.

(5) Notwithstanding any other provision of this subchapter, when a joint tax return is filed, the Mayor shall separate the amount of refund due the spouse of an individual whose refund is subject to interception under this section from the amount of refund due the individual whose refund is subject to interception under this section in proportion to the gross earnings of each spouse.

(6)(A) Prior to interception of any individual's income tax refund, the Mayor shall provide notice to the taxpayer of the referral for tax refund offset and of the opportunity to contest the referral.

(B) After interception of an individual's income tax refund, but before disbursement of said refund, the Mayor shall provide notice to the taxpayer that his income tax refund has been intercepted or apportioned, whichever is applicable. Such notification shall provide for a period of not less than 30 days after such notice is sent, within which the taxpayer may file a protest with the Mayor regarding the interception or apportionment of his income tax refund. If no protest by the taxpayer referred to in this section is filed in the 30-day period, the interception or apportionment, as determined by the Mayor, shall be final. If a protest is filed within the 30-day period, opportunity for a hearing thereon shall be granted by the Mayor. The Mayor shall promptly notify the taxpayer of any final determination as a result of the protest.

(7) The Mayor shall refuse to consider a protest for the following reasons:

(A) The protest solely concerns an issue other than the existence or amount of the arrearage of court ordered child support, default on student loans, or overpayment of unemployment compensation, or the division of a joint refund;

(B) The protest solely concerns an issue which has been previously decided and no new facts or evidence have been provided; or

(C) The protest is not filed in a timely manner as set forth in this section.

(8) If the Mayor determines that a refund should not have been intercepted, or that an excess amount has been intercepted over and above the amount of the taxpayer's arrearages of court ordered child support, default on student loans, or overpayment of unemployment compensation, or that the division of a joint refund was incorrect, the Mayor shall return the refund or the excess amount that has been intercepted, whichever is applicable, to the taxpayer within 30 days of the date of the final determination.

(9)(A) If no protest is filed within the 30-day period as provided for in this section, or if upon protest it is determined that the interception or apportionment was not in error, then intercepted refunds shall be deposited as follows:

(i) With the agency of the District responsible for administering the child support program as authorized by Title IV Part D of the Social Security Act (42 U.S.C. § 651 et seq.). All funds deposited pursuant to this section shall be disbursed in accordance with 42 U.S.C. § 657 and the regulations and interpretations thereunder;

(ii) With the university for refunds withheld from individuals in default under a federal student loan program. All funds deposited with the university shall be applied toward satisfying the amount of principal determined to be in default; or

(iii) With the Department of Employment Services for refunds withheld from individuals who were overpaid under Chapter 1 of Title 46. All funds deposited with the Department shall be applied toward repaying the Unemployment Compensation Fund.

(B) If the Mayor is notified in accordance with paragraph (3) of this subsection that a taxpayer owes more than 1 debt that is subject to paragraph (4) of this subsection, he shall apply any refund due that taxpayer to satisfy the debts in the following order:

(i) First, the refund shall be applied to satisfy any outstanding District of Columbia tax liability including penalties and interest;

(ii) Second, any remaining overpayment shall be applied to satisfy any court ordered child support pursuant to paragraph (4)(A) of this subsection;

(iii) Third, any remaining overpayment shall be applied to satisfy defaulted student loans pursuant to paragraph (4)(B) of this subsection; and

(iv) Fourth, any remaining overpayment shall be applied to satisfy overpayments of unemployment compensation pursuant to paragraph (4)(C) of this subsection.

(10) Any person aggrieved by a final determination of the Mayor in accordance with this section may, within 6 months from the date of such determination, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3306 to 47-3308.

(11) The collection remedy under this section shall be in addition to and not in substitution for any other remedy available by law.

(12)(A) The provisions of this section relating to the interception of income tax refunds of individuals who are in arrears with court-ordered child support payments shall apply to income tax refunds issued after September 18, 1982.

(B) The provisions of this section relating to the interception of income tax refunds of individuals in default under the federal student loan programs shall apply to income tax refunds issued for tax years 1987 and thereafter.

(C) The provisions of this section relating to the interception of income tax refunds of individuals who received overpayments of unemployment compensation shall apply to income tax refunds issued for Tax Year 1993 and subsequent years.

(13) The Mayor shall issue regulations necessary to carry out the provisions of this section.

(14) For purposes of this subsection, the term:

(A) "University" means the University of the District of Columbia established by § 31-1511.

(B) "Federal student loan programs" means the National Direct Student Loan Program authorized by 20 U.S.C. § 401 et seq., and 20 U.S.C. § 1001 et seq.; and the Nursing Student Loan Program authorized under 42 U.S.C. § 297a et seq.; as governed by 42 C.F.R. 57.301-57.320 (50 Fed. Reg. 34,434).

(C) "Unemployment compensation" means the unemployment compensation benefit paid under the program established by Chapter 1 of Title 46, and administered pursuant to Reorganization Plan No. 1 of 1980, effective April 17, 1980.

(b) *Employers.* — (1) Where there has been an overpayment of tax under § 47-1812.8, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under § 47-1812.8 by the employer.

(2) Unless written application for refund or credit is received by the Mayor from the employer within 3 years from the date the overpayment was made, no refund or credit shall be allowed.

(c) *Withholdings.* — (1) Where the amount of the tax withheld at the source under § 47-1812.8 exceeds the taxes imposed by this chapter against which the tax so withheld may be credited under this section, the amount of such excess shall be considered an overpayment; provided, that, any other provision of law notwithstanding, interest on any overpayment of taxes collected under the withholding provisions of this chapter and under any declaration of estimated tax shall not begin to accrue until 90 days after the overpayment is made or after the date of filing of a final return, whichever is later.

(2) For the purposes of this section:

(A) Any tax actually deducted and withheld at the source during any calendar year under this chapter shall, in respect to the recipient of the income, be deemed to have been paid on the 15th day of the 4th month following the close of the taxable year with respect to which the tax is allowable as a credit under this chapter.

(B) Any amount paid as estimated taxes prior to the 15th day of the 3rd month following the close of the taxable year in the case of corporations and prior to the 15th day of the 4th month following the close of the taxable year in the case of individuals and unincorporated businesses, shall be deemed to have been paid on the 15th day of the 3rd or 4th month, as the case may be.

(3) Authority to refund overpayments of taxes collected pursuant to § 47-1812.8 is vested in the Mayor or his duly authorized representatives. Such refunds shall be made from moneys paid pursuant to the provisions of § 47-1812.8 and retained in a special account in the Treasury of the United States. The total amount so retained shall not exceed \$500,000 at any 1 time. Any excess in such special account not required for refunding overpayments collected pursuant to § 47-1812.8 at any time, as determined by the Mayor, shall be transferred to the General Fund of the District. (July 16, 1947, 61 Stat. 355, ch. 258, art. I, title XII, § 11; May 27, 1949, 63 Stat. 133, ch. 146, title IV, § 418; Mar. 31, 1956, 70 Stat. 78, ch. 154, § 12; July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(f); 1973 Ed., § 47-1586j; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 23, 1980, D.C. Law 3-92, § 502(c), 27 DCR 3390; June 11, 1982, D.C. Law 4-118, § 118, 29 DCR 1770; Sept. 18, 1982, D.C. Law 4-154, § 2, 29 DCR 3486; Feb. 24, 1987, D.C. Law 6-166, § 33(g)(1), 33 DCR 6710; Feb. 24, 1987, D.C. Law 6-183, § 2, 33 DCR 7669; Oct. 1, 1987, D.C. Law 7-29, § 2(l)(5), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(f), 35 DCR 5398; Mar. 27, 1993, D.C. Law 9-260, § 301, 40 DCR 1007; Sept. 24, 1993, D.C. Law 10-15, § 301, 40 DCR 5420; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to remuneration based on District employment subject to attachment and garnishment for child support, maintenance or alimony payments, see § 1-516.

As to actions for support of public assistance applicants or recipients by responsible relatives, see § 3-213.1.

As to alimony pendente lite, suit money, enforcement, and custody of children, see § 16-911.

As to maintenance of spouse, minor children, or former spouse, see § 16-916.

Section references. — This section is referred to in §§ 1-359.3, 47-174, 47-1805.4, and 47-1815.1.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 4-118. — See note to § 47-1801.1a.

Legislative history of Law 4-154. — Law 4-154, the "Project Setoff Liability Act of 1982," was introduced in Council and assigned Bill No. 4-243, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 22, 1982 and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-225 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-166. — See note to § 47-1805.4.

Legislative history of Law 6-183. — Law 6-183, the "Set-Off of District of Columbia Income Tax Refunds for Default of Student Loans

Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-441, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 21, 1986 and November 5, 1986, respectively. Signed by the Mayor on November 25, 1986, it was assigned Act No. 6-234 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Legislative history of Law 7-141. — See note to § 47-1801.4.

Legislative history of Law 9-260. — Law 9-260, the "District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-729. The Bill was adopted on first and second readings on December 15, 1992, and January 5, 1993, respectively. Signed by the Mayor on January 25, 1993, it was assigned Act No. 9-408 and transmitted to both Houses of Congress for its review. D.C. Law 9-260 became effective on March 27, 1993.

Legislative history of Law 10-15. — Law 10-15, the "Unemployment Compensation Comprehensive Improvements Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-52, which was referred to the Committee on Labor. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 13, 1993, it was assigned Act No. 10-44 and transmitted to both Houses of Congress for its review. D.C. Law 10-15 became effective on September 24, 1993.

References in text. — The reference to 20 U.S.C. § 401 et seq. in subsection (a)(14)(B) is obsolete, the provisions of Chapter 17 of 20 U.S.C. having been repealed or omitted.

"Reorganization Plan No. 1 of 1980" referred to in subsection (a)(14)(C) of this section is set out in its entirety following the District of Columbia Self-Government and Governmental Reorganization Act in Volume 1 at page 299.

Appropriations authorized for making refunds and for payment of judgments entered against District Government. — Section 106 of Pub. L. 104-194, 110 Stat. 2365, the District of Columbia Appropriations Act, 1997, provided that there are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, that nothing contained in the section shall be construed as modifying or affecting the provisions of (c)(3) of this section.

Purpose of filing deadline for tax refund claims. — One of the important purposes served by the 3-year filing deadline for tax refund claims is a practical one — to protect the District against financial instability by setting a date certain by which the District may know

the precise extent of its liability for refunds. *Kleiboemer v. District of Columbia*, App. D.C., 458 A.2d 731 (1983).

Timely filing of individual refund claims prerequisite to recovery after tax held unlawful. — Timely filing of individual claims for refund at the administrative level was a prerequisite to recovery of refunds following the court's decision that a tax was unlawful and a claim filed by 1 taxpayer on behalf of the entire class did not satisfy this requirement. *Kleiboemer v. District of Columbia*, App. D.C., 458 A.2d 731 (1983).

Compliance not tolled solely because of challenge to tax via class action. — Compliance with this section was not tolled solely by reason of the fact that taxpayers pursued their challenge to the validity of the tax under a class action suit. *Kleiboemer v. District of Columbia*, App. D.C., 458 A.2d 731 (1983).

Order directing tax refunds for certain fiscal year taxpayers constituted final order which should have been appealed if taxpayers were to avail themselves of equitable tolling of statute of limitations for claiming refunds. *Kleiboemer v. District of Columbia*, App. D.C., 458 A.2d 731 (1983).

Cited in *Automatic Enters., Inc. v. District of Columbia*, App. D.C., 465 A.2d 388 (1983).

§ 47-1812.11a. Tax check-off.

(a) There shall be provided on the District of Columbia individual income tax return a voluntary check-off that indicates an individual may contribute a minimum of \$1 to the ~~Public Fund for Drug Prevention and Children at Risk~~ established in § 47-4002. The contribution shall reduce any refund owed to the individual taxpayer or increase the tax owed by the individual taxpayer on the taxpayer's income tax return. The funds generated from the tax check-off shall be earmarked for the Fund except that any cost incurred by the Mayor in the collection, processing, accounting, or disbursement of the funds generated by the tax check-off shall be reimbursed to the Mayor from the funds generated by the tax check-off.

(b) The funds generated by the tax check-off established in subsection (a) of this section shall be transferred to the ~~Fund~~ pursuant to rules issued by the Mayor that established timetables and procedures for transfer. Check-off funds shall be transferred to the ~~Fund~~ only after the costs of the Mayor described in subsection (a) of this section are reimbursed.

(c)(1) Except as provided in paragraph (2) of this subsection, any unpaid District income tax liability on an individual income tax return shall render any voluntary tax check-off election invalid. Any amount paid for the purpose of contributing to the ~~Fund~~ shall be used first to satisfy any unpaid tax liability in whole or in part.

(2) If there is any amount that remains after satisfaction of the unpaid tax liability, the amount shall be credited to the ~~Fund~~.

(d) If on March 1 of any year that begins 2 years after implementation of the tax check-off the contributions for the previous taxable year fall below \$100,000, this section and any rules issued pursuant to § 47-4005 that implement this section shall be automatically repealed.

(e) For the purposes of this section, the terms “drug prevention”, “children at risk”, “Fund”, and “tax check-off” shall have the same meaning as the terms have in § 47-4001. (July 16, 1947, ch. 258, art. I, title XII, § 11a, as added Mar. 8, 1991, D.C. Law 8-246, § 6, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to the Public Fund for Drug Prevention and Children at Risk, see §§ 47-4001 to 47-4005.

Section references. — This section is referred to in §§ 47-4001 and 47-4002.

Legislative history of Law 8-246. — Law 8-246, the “District of Columbia Drug Prevention and Children at Risk Tax Check-Off Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-561, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned

Act No. 8-330 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-56. — Law 10-56, the “Child Abuse and Neglect Prevention Children’s Trust Fund Act of 1993,” was introduced in Council and assigned Bill No. 10-114, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 13, 1993 and September 21, 1993, respectively. Signed by the Mayor on October 1, 1993, it was assigned Act No. 10-109 and transmitted to both Houses of Congress for its review. D.C. Law 10-56 became effective on November 20, 1993.

§ 47-1812.12. Closing agreements.

The Mayor is authorized to enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any income tax for any period ending prior to the date of the agreement. If such agreement is approved by the Mayor within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon or the agreement modified; and in any suit or proceeding relating to the tax liability of the taxpayer such agreement shall not be annulled, modified, set aside, or disregarded. (July 16, 1947, 61 Stat. 355, ch. 258, art. I, title XII, § 12; 1973 Ed., § 47-1586k; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1812.13. Compromises.

(a) *Taxes.* — Whenever in the opinion of the Mayor there shall arise with respect of any tax imposed under this chapter any doubt as to the liability of the taxpayer or the collectibility of the tax for any reason whatsoever, the Mayor may compromise such tax.

(b) *Concealment of property or falsification activities.* — Any person who, in connection with any compromise under this section or offer of such compromise

or in connection with any closing agreement under this subchapter or offer to enter into any such agreement, willfully, (1) conceals from any officer or employee of the District of Columbia any property belonging to the estate of the taxpayer or other person liable with respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record or makes under oath any false statement relating to the estate or the financial condition of the taxpayer or to the person liable in respect of the tax, shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than 1 year, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia or any of his assistants in the name of the District of Columbia.

(c) *Penalties and interest.* — The Mayor shall have the power for cause shown to compromise any penalty which may be imposed by the Mayor under the provisions of this chapter. The Mayor may adjust any interest where, in his opinion, the facts in the case warrant such action. (July 16, 1947, 61 Stat. 355, ch. 258, art. I, title XII, § 13; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1586l; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

§ 47-1812.14. Declaration of estimated tax by corporations, financial institutions, and unincorporated businesses.

(a) *Declaration and payment.* — Every corporation, financial institution, and unincorporated business required to make and file a franchise tax return under this chapter shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax during its taxable year in such amounts and under such conditions, as the Mayor of the District of Columbia shall by regulations prescribe. In the case of the taxable year beginning in 1970, such regulations may not require payment before the last day on which a return for such taxable year is required to be filed under § 47-1805.3(a) of an aggregate amount of estimated tax for such year in excess of one-half of such estimated tax; provided, however, that in the case of financial institutions, the provisions of this section shall be subject to § 47-2507(a)(3) and to § 47-2507(b)(3).

(b) *Underpayment.* —

(1)(A) *Addition to tax.* — In case of any underpayment of estimated tax by a corporation, financial institution, or an unincorporated business, there shall be added to the tax for the taxable year an amount determined at the rate of 1 and ½% per month upon the amount of the underpayment (determined under subparagraph (B) of this paragraph) for the period of the underpayment (determined under subparagraphs (C) and (D) of this paragraph).

(B) *Amount of underpayment.* — For purposes of subparagraph (A) of this paragraph, the amount of the underpayment shall be the excess of:

(i) For purposes of subparagraph (A) of this paragraph, the amount of the underpayment shall be the excess of:

(I) The amount of the installment which would be required to be paid if the estimated tax were equal to 90% of the tax shown on the return for the taxable year or, if no return was filed, 90% of the tax for such year; over

(II) The amount, if any, of the installment paid on or before the last date prescribed for payment.

(ii) Every financial institution required to file a gross earnings tax return and a franchise tax return during the 3-year transition period described in § 47-2507(b)(2) shall calculate the amount of underpayment for each such taxable year in accordance with § 47-2507(b)(3)(B).

(C) *Period of underpayment.* — (i) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

(I) The 15th day of the 4th month following the close of the taxable year; or

(II) With respect to any portion of the underpayment, the date on which such portion is paid.

(ii) Every financial institution required to file a gross earnings tax return and a franchise tax return for the 3-year transition period described in § 47-2507(b)(2) shall calculate the amount of underpayment for each such taxable year in accordance with § 47-2507(b)(3)(B).

(2) For purposes of subparagraphs (C) and (D) of paragraph (1) of this subsection, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (1)(B)(i) of this subsection for such installment date.

(c) *Overpayment.* — Overpayment resulting from the payment of estimated tax for a taxable year in excess of the amount determined to be due upon the filing of a franchise tax return for such taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year. No refund shall be made of any estimated tax paid unless a complete return is filed. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XII, § 14; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title V, § 603(a); 1973 Ed., § 47-1586l-1; Oct. 21, 1975, D.C. Law 1-23, title VI, § 608, 22 DCR 2114; Sept. 13, 1980, D.C. Law 3-92, § 502(d), 27 DCR 3390; Sept. 13, 1980, D.C. Law 3-95, § 107, 27 DCR 3509; July 24, 1982, D.C. Law 4-130, § 2, 29 DCR 2412; Sept. 26, 1984, D.C. Law 5-113, § 302(c), 31 DCR 3974; Mar. 14, 1985, D.C. Law 5-159, § 24, 32 DCR 30; Feb. 28, 1987, D.C. Law 6-209, § 404(a), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-453, 47-454 and 47-2507.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3

Legislative history of Law 3-95. — See note to § 47-1801.4.

Legislative history of Law 4-130. — See note to § 47-1801.4.

Legislative history of Law 5-113. — See note to § 47-1807.1.

Legislative history of Law 5-159. — Law 5-159, the “End of Session Technical Amendments Act of 1984,” was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984 and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-209. — Law 6-209, the “Tax Amnesty Act of 1986,” was introduced in Council and assigned Bill No.

6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

§ 47-1812.15. “Person” defined.

The term “person” as used in this subchapter includes an officer or employee of a corporation or financial institution, or a member or employee of a partnership, who as such officer, employee, or member is under duty to perform the act in respect to which the violation occurs. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XII, § 14; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 603(a); 1973 Ed., § 47-1586m; Sept. 13, 1980, D.C. Law 3-95, § 108, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-1801.4.

§ 47-1812.16. Collection by Mayor.

The taxes provided under this chapter shall be collected by the Mayor. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XII, § 15; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 603(a); 1973 Ed., § 47-1586n; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 21, 1988, D.C. Law 7-141, § 2(g), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 7-141. — See note to § 47-1801.4.

§ 47-1812.17. Furnishing copy of federal return.

For the purpose of determining the liability of any person under this chapter and the extent of such liability, the Mayor may require the taxpayer to furnish the District with a true and correct copy of such person’s federal income tax return, and a copy of any federal partnership return with respect to any or all partnerships in which the taxpayer has a proprietary interest, for any taxable year, and a reconciliation of such return with the taxpayer’s District return for such taxable year. (June 11, 1982, D.C. Law 4-118, § 202, 29 DCR 1770; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-118. — See note to § 47-1801.1a.

*Subchapter XIII. Penalties and Interest.***§ 47-1813.1. Additions to tax — Delinquencies.**

(a) *Failure to file return.* — For failure to file a return required by this chapter, interest and penalties shall be added to the tax in accordance with §§ 47-453 through 47-458. With respect to declarations of estimated tax, for the purposes of this subsection, the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed showing an estimated tax equal to the correct tax reduced by the amount of credit for tax withheld.

(b) *Failure to pay.* — For failure to pay the amount of the tax required by this article, interest and penalties shall be added to the tax in accordance with §§ 47-453 through 47-458.

(c) *Withholding violations.* — If taxes required to be withheld on wages are not paid or filed within the time prescribed, interest and penalties shall be added to the tax in accordance with §§ 47-453 through 47-458.

(d) *Underestimation.* — If 90% of the tax imposed under § 47-1806.3(a), determined without regard to the amount of credit for tax withheld, exceeds the estimated tax, increased by such credit, there shall be added to the tax an amount equal to such excess, or equal to 1 and ½% per month of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. This subsection shall not apply to the taxable year in which falls the death of the taxpayer, nor shall it apply to the taxable year in which the taxpayer makes a timely payment on April 15th, June 15th, and September 15th, of such year, and January 15th of the succeeding year, and the total of all such payments is an amount at least as great as though computed on the basis of the facts shown on his return for the preceding taxable year.

(e) *Collection.* — [Repealed]. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XIII, § 1; Mar. 31, 1956, 70 Stat. 79, ch. 154, § 13; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 203(b); 1973, Ed., § 47-1589; Oct. 21, 1975, D.C. Law 1-23, title VI, § 607, 22 DCR 2113; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 503(a), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 108(a), (b), 29 DCR 2418; Sept. 26, 1984, D.C. Law 5-113, § 302(d), 31 DCR 3974; Feb. 28, 1987, D.C. Law 6-209, § 404(b), 34 DCR 689; Oct. 1, 1987, D.C. Law 7-29, § 2(m), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Office of the People's Counsel Agency Fund, see § 43-612.

Section references. — This section is referred to in §§ 47-453, 47-454 and 47-1813.4.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Legislative history of Law 5-113. — See note to § 47-1807.1.

Legislative history of Law 6-209. — See note to § 47-1812.14.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

Cited in *Bord v. District of Columbia*, 344

F.2d 560 (D.C. Cir. 1965); *Drabkin v. District of Columbia*, 824 F.2d 1102 (D.C. Cir. 1987).

§ 47-1813.2. Same — Interest on deficiencies.

(a) *Assessment and collection.* — Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the Mayor, and shall be collected at the rate and in the manner provided in §§ 47-453 through 47-458 from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed.

(b) *Payment extensions.* — If the time for payment of any part of a deficiency is extended, there shall be collected, interest on the part of the deficiency the time for payment of which is so extended at the rate and in the manner provided in §§ 47-453 through 47-458 for the period of the extension. If a part of the deficiency the time for payment of which is so extended is not paid in full, together with all penalties and interest due thereon, prior to the expiration of the period of the extension, then interest at the rate and in the manner provided in §§ 47-453 through 47-458 shall be added and collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XIII, § 2; Mar. 31, 1956, 70 Stat. 79, ch. 154, § 14; 1973 Ed., § 47-1589a; Oct. 21, 1975, D.C. Law 1-23, title VI, § 606, 22 DCR 2113; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 503(b), 27 DCR 3390; Feb. 28, 1987, D.C. Law 6-209, § 404(c), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1813.4.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 6-209. — See note to § 47-1812.14.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-1813.3. Same — Fraud.

If any part of a deficiency is due to fraud, interest and penalties shall be added to the tax in accordance with §§ 47-453 through 47-458. (July 16, 1947, 61 Stat. 356, ch. 258, art. I, title XIII, § 3; 1973 Ed., § 47-1589b; Feb. 28, 1987, D.C. Law 6-209, § 404(d), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1813.4.

Legislative history of Law 6-209. — See note to § 47-1812.14.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-1813.4. Same — Nonpayments.

(a) *Tax shown on return.* —

(1) *In general.* — Where the amount determined by the taxpayer as the tax imposed by this chapter, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected interest upon such unpaid amount in accordance with §§ 47-453 through 47-458 from the date prescribed for its payment until it is paid.

(2) *Payment extensions.* — Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount of time for payment of which has been extended, and the interest thereon determined under § 47-1813.5, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest shall be collected in accordance with §§ 47-453 through 47-458 and shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) *Deficiencies and delinquencies.* — Where a deficiency, or any interest or additional amounts assessed in connection therewith under § 47-1813.2 or under § 47-1813.3, or any addition to the tax in case of delinquency provided for in § 47-1813.1, is not paid in full within 10 days from the date of assessment thereof, there shall be collected, interest upon the unpaid amount shall be collected in accordance with §§ 47-453 through 47-458 from the date of such notice and demand until it is paid. (July 16, 1947, 61 Stat. 357, ch. 258, art. I, title XIII, § 4; Mar. 31, 1956, 70 Stat. 79, ch. 154, § 14; 1973 Ed., § 47-1589c; Oct. 21, 1975, D.C. Law 1-23, title VI, § 606, 22 DCR 2113; Sept. 13, 1980, D.C. Law 3-92, § 503(c), 27 DCR 3390; Feb. 28, 1987, D.C. Law 6-209, § 404(e), 34 DCR 689; Sept. 21, 1988, D.C. Law 7-141, § 2(k), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 40-851.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 6-209. — See note to § 47-1812.14.

Legislative history of Law 7-141. — See note to § 47-1801.4.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-1813.5. Same — Payment extensions.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of § 47-1812.7(b), there shall be collected, as a part of such amount, interest thereon at the rate of 1 ½% per month or portion of a month from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension. (July 16, 1947, 61 Stat. 357, ch. 258, art. I, title XIII, § 5; Mar. 31, 1956, 70 Stat. 79, ch. 154, § 14; 1973 Ed., § 47-1589d; Oct. 21, 1975, D.C. Law 1-23, title VI, § 606, 22 DCR 2113; Sept. 13, 1980, D.C. Law

3-92, § 503(d), 27 DCR 3390; Sept. 21, 1988, D.C. Law 7-141, § 2(i), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1813.4.

Legislative history of Law 1-23. — See note to § 47-1801.4.

Legislative history of Law 3-92. — See note to § 47-1803.3.

Legislative history of Law 7-141. — See note to § 47-1801.4.

§ 47-1813.6. Violations.

(a) *Willful offenses.* — Any person required under this chapter to pay or collect any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of this chapter, who willfully refuses to pay or collect such tax, to make such return, to keep such records, or to supply such information, or who makes a false or fraudulent return, or who willfully attempts in any manner to defeat or evade the tax imposed by this chapter, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be fined not more than \$5,000, or imprisoned for not more than 1 year, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel or one of his assistants in the name of the District.

(b) *Nonwillful offenses.* — Any person required under this chapter to pay or collect any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information for the purposes of this chapter, who shall fail or neglect to pay or collect such tax, to make such return, or keep such records, or to supply such information, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be fined not more than \$3,000, or imprisoned for not more than 6 months, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on an information by the Corporation Counsel for the District of Columbia or one of his or her assistants in the name of the District.

(c) *“Person” defined.* — The term “person” as used in this subchapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under duty to perform the act in respect to which the violation occurs. (July 16, 1947, 61 Stat. 357, ch. 258, art. I, title XIII, § 6; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1589e; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(e), 23 DCR 8749; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-124. — See note to § 47-1803.2.

Income and franchise tax provisions are not unconstitutional on any theory of “taxa-

tion without representation.” *Green v. District of Columbia*, App. D.C., 221 A.2d 441 (1966).

§ 47-1813.7. Application of subchapter.

The provisions of this subchapter regarding the assessment of interest charges for the late filing of returns, late payment of the tax, and extensions of

time for filing returns, shall apply only with respect to late returns filed, late payments made, extensions of time granted, and determinations of tax due (by court action or administratively) after July 1, 1980. (Sept. 13, 1980, D.C. Law 3-92, § 504, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-1803.3.

Subchapter XIV. Licenses.

§ 47-1814.1. Requirement for a professional license.

(a) Except as provided in §§ 47-1814.1a(b) and 47-1814.9, for the license year beginning January 1, 1992, and ending December 31, 1992, and for each license year thereafter, every person who engages in a profession in the District of Columbia, as defined in accordance with § 47-1814.1a(a), shall file with the Mayor, prior to December 1st of each preceding year, an application for a professional license and shall pay an annual license fee of \$250.

(b) For the license year beginning January 1, 1993, and ending December 31, 1993, and for each license year thereafter, there shall be no proration of the license fee imposed by this section.

(c) The license required in subsection (a) of this section shall be in addition to all other licenses, fees, and permits required by law. (July 16, 1947, 61 Stat. 357, ch. 258, art. I, title XIV, § 1; May 27, 1949, 63 Stat. 133, ch. 146, title IV, § 419; Mar. 31, 1956, 70 Stat. 79, ch. 154, § 15; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 7; Oct. 31, 1969, 83 Stat. 179, Pub. L. 91-106, title VI, § 604(b)(1); 1973 Ed., § 47-1591; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(f), 23 DCR 8749; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; June 22, 1983, D.C. Law 5-14, § 904, 30 DCR 2632; July 23, 1992, D.C. Law 9-134, § 103(a), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 103(a), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to licensing of manufacturer or dealer of vessels, see Article 29 of the Police Regulations of the District of Columbia.

Section references. — This section is referred to in §§ 47-1814.1a, 47-1814.5, 47-1814.6, 47-1814.8, and 47-1814.9.

Legislative history of Law 1-124. — See note to § 47-1803.2.

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 5-14. — See note to § 47-1807.2.

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

§ 47-1814.1a. Persons engaging in a profession.

(a) Except as provided in subsection (b) of this section, the following persons shall, for purposes of § 47-1814.1, be deemed to engage in a profession in the

District of Columbia and be required to obtain a professional license in accordance with § 47-1814.1:

(1)(A) A person who holds a valid permit to engage in the practice of public accounting in the District of Columbia issued by the District of Columbia Board of Accountancy under § 2-114, and who:

(i) Holds a certificate of certified public accountant or an endorsement of a certificate of certified public accountant in the District of Columbia issued by the District of Columbia Board of Accountancy under § 2-107;

(ii) Is registered as a public accountant under § 2-109; or

(iii) Is registered as a foreign accountant under § 2-110; or

(B) A person who holds a temporary certificate and permit as a certified public accountant in the District of Columbia issued by the District of Columbia Board of Accountancy under § 2-108;

(2) A person qualified as an architect or registered architect pursuant to Chapter 2 of Title 2;

(3) A person registered as a professional engineer pursuant to Chapter 23 of Title 2;

(4) A person licensed, certified, or registered to practice medicine, dentistry, or optometry in the District of Columbia pursuant to § 2-3305.1;

(5) A person licensed to practice law in the District of Columbia pursuant to § 11-2501, and the rules promulgated by the District of Columbia Court of Appeals pursuant to the authority granted by that section;

(6) A person licensed to practice acupuncture, chiropractic, podiatry, or psychology in the District of Columbia pursuant to § 2-3305.1; and

(7) A person licensed as an interior designer in the District of Columbia pursuant to Chapter 34 of Title 2.

(b) The following persons shall be exempt from the requirement to obtain a professional license pursuant to § 47-1814.1:

(1) An officer or employee of the government of the United States, the government of the District of Columbia, or any national, state, or local government, or any agency or subdivision of a national, state, or local government, or any international organization subject to the International Organizations Immunity Act (22 U.S.C. § 288 et seq.), who applies for and is granted an exemption from the license required pursuant to § 47-1814.1 in accordance with the rules issued by the Mayor pursuant to § 47-1816.1, and who is not otherwise required to obtain a license pursuant to subsection (a) of this section, but only as for services performed in the officer's or employee's official capacity;

(2) An attorney who is an inactive member of the District of Columbia bar, a judge, or a retired judge eligible for temporary judicial assignment, who applies for and is granted an exemption from the license required pursuant to § 47-1814.1 in accordance with the rules issued by the Mayor pursuant to § 47-1816.1 and who is not otherwise required to obtain a license pursuant to subsection (a) of this section; and

(3) An attorney who is engaged in the provision of legal services, on a pro bono basis solely or in combination with government service in accordance with paragraph (1) of this subsection, or an attorney who is engaged in the

provision of legal services solely as an employee or an affiliate of a nonprofit organization located in the District of Columbia that provides legal services for indigent clients without fee or for a nominal processing fee, who applies for and is granted an exemption from the license required pursuant to § 47-1814.1 in accordance with the rules issued by the Mayor pursuant to § 47-1816.1 and who is not otherwise required to obtain a license pursuant to subsection (a) of this section.

(c) Notwithstanding any other provision of this subchapter, a person who would otherwise be liable under § 47-1814.1 to pay an annual license fee of more than \$250 because that person meets the requirements of more than 1 paragraph of subsection (a) of this section shall not be required to pay an annual license fee of more than \$250. (June 16, 1947, ch. 258, art. I, title XIV, § 1a, as added July 23, 1992, D.C. Law 9-134, § 103(b); Sept. 10, 1992, D.C. Law 9-145, § 103(b), 39 DCR 4895; Oct. 7, 1992, D.C. Law 9-177, § 9, 39 DCR 5868; Aug. 6, 1993, D.C. Law 10-11, § 110, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 110, 40 DCR 5489; Feb. 5, 1994, D.C. Law 10-68, § 45, 40 DCR 6311; Sept. 24, 1994, D.C. Law 10-179, § 2, 41 DCR 5210; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1814.1 and 47-1814.8.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 9-177. — Law 9-177, the "Real Property Tax Rates for the Tax Year 1993 and Real Property Tax Revision and Reclassification Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-563, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 23, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 28, 1992, it was assigned Act No. 9-283 and transmitted to both Houses of Congress for its review. D.C. Law 9-177 became effective on October 7, 1992.

Legislative history of Law 10-11. — Law 10-11, the "Omnibus Budget Support Temporary Act of 1993," was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the "Omnibus Budget Support Act of 1993," was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Legislative history of Law 10-68. — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-179. — Law 10-179, the "Professional License Fee Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-83, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 26, 1994, it was assigned

Act No. 10-304 and transmitted to both Houses of Congress for its review. D.C. Law 10-179 became effective on September 24, 1994.

§ 47-1814.2. Same — Duration.

All licenses issued under this subchapter shall be in effect for the duration of the calendar year for which issued, unless revoked as provided in this subchapter, and shall expire at midnight on the 31st day of December of each year. No licenses issued under this subchapter may be transferred to any other person. (July 16, 1947, 61 Stat. 358, ch. 258, art. I, title XIV, § 2; Mar. 31, 1956, 70 Stat. 80, ch. 154, § 16; 1973 Ed., § 47-1591a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1814.3. Same — Posting and inspection.

All licenses granted under this subchapter to persons having an office or place of business in the District must be conspicuously posted in the office or on the premises of the licensee, and said license shall be accessible at all times for inspection by the police or other officers duly authorized to make such inspection. (July 16, 1947, 61 Stat. 358, ch. 258, art. I, title XIV, § 3; Mar. 31, 1956, 70 Stat. 80, ch. 154, § 17; 1973 Ed., § 47-1591b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-1814.4. Same — Revocation.

The Mayor may, after hearing, revoke any license issued hereunder for failure of the licensee to file a return or corrected return within the time required by this chapter, or to pay any installment of the annual fee when due. (July 16, 1947, 61 Stat. 358, ch. 258, art. I, title XIV, § 5; 1973 Ed., § 103(c), 39 DCR 47-1591d; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; July 23, 1992, D.C. Law 9-134, § 103(c), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 103(c), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

§ 47-1814.5. Same — Renewal.

Licenses shall be renewed for the ensuing calendar year upon application as provided in § 47-1814.1. No license shall be issued or renewed if the taxpayer has failed or refused to pay any annual fee or installment thereof, or penalties or interest thereon, imposed by this chapter; provided, however, that, the Mayor, in his discretion, for cause shown, may, on such terms or conditions as he may determine or prescribe, waive the provisions of this section. (July 16, 1947, 61 Stat. 358, ch. 258, art. I, title XIV, § 6; 1973 Ed., § 47-1591e; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; July 23, 1992, D.C. Law 9-134,

§ 103(d), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 103(d), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-158. — See note to § 47-1801.4.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

Legislative history of Law 9-134. — See note to § 47-1814.1a.

§ 47-1814.6. Same — Failure to obtain.

(a) In addition to any other fee, interest or penalty due, any person who violates § 47-1814.1 shall be fined not more than \$300, and each day that such violation continues shall constitute a separate offense. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel or any of his assistants in the name of the District.

(b) The District shall have a lien upon the real and personal property located in the District of any person covered by this subchapter for any license fees, penalties, interest, and fines that are due under this subchapter. The District shall have the priority of a secured creditor. (July 16, 1947, 61 Stat. 358, ch. 258, art. I, title XIV, § 7; Mar. 31, 1956, 70 Stat. 80, ch. 154, § 18; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Oct. 31, 1969, 83 Stat. 179, Pub. L. 91-106, § 604(b)(2); July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1591f; July 23, 1992, D.C. Law 9-134, § 103(e), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 103(e), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

§ 47-1814.7. Certain suits forbidden.

No suit shall be filed to enjoin the assessment or collection by the District of Columbia, or any of its officers, agents, or employees of any license fee, penalty, interest, or fine imposed by this subchapter. (July 16, 1947, ch. 258, art. I, title XIV, § 8, as added July 23, 1992, D.C. Law 9-134, § 103(f); Sept. 10, 1992, D.C. Law 9-145, § 103(f), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

§ 47-1814.8. Rulemaking.

The rules issued by the Mayor pursuant to § 47-1816.1 shall:

- (1) Prescribe forms for the professional license application and annual renewal, which forms shall be signed by the applicant under penalty of perjury;
- (2) Establish application procedures in the event that a person who is required to obtain a professional license under this subchapter begins engaging in a profession after the beginning of the license year;

(3) Establish a schedule of interest and penalties if a person who is required to obtain a professional license under this subchapter does not pay the annual license fee on or before the last date prescribed for payment; and

(4) Establish procedures to permit persons who are exempt, pursuant to § 47-1814.1a(b), from the requirements of § 47-1814.1 to apply for an exemption. (July 16, 1947, ch. 258, art. I, title XIV, § 9, as added July 23, 1992, D.C. Law 9-134, § 103(f); Sept. 10, 1992, D.C. Law 9-145, § 103(f), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

§ 47-1814.9. Applicability provisions.

(a) Except as provided in subsection (b) of this section, for the license year beginning January 1, 1992, and ending December 31, 1992, a person liable for the annual fee of \$250 pursuant to § 47-1814.1, shall pay, prior to July 31, 1992, a prorated fee of \$125 for the license period beginning July 1, 1992, and ending December 31, 1992.

(b) A person who obtained a trade, business, or professional license for the license year beginning January 1, 1992, and who paid, prior to, April 29, 1992, the \$100 license fee required pursuant to § 47-1814.1, shall be exempt from the requirement to pay a prorated fee of \$125 for the license period beginning July 1, 1992, and ending December 31, 1992. Such person shall be liable for any fee imposed by this subchapter for the license year beginning January 1, 1993, and for each license year thereafter. (July 16, 1947, ch. 258, art. I, title XIV, § 9, as added July 23, 1992, D.C. Law 9-134, § 103(f); Sept. 10, 1992, D.C. Law 9-145, § 103(f), 39 DCR 4895; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1814.1.

Legislative history of Law 9-145. — See note to § 47-1814.1a.

Legislative history of Law 9-134. — See note to § 47-1814.1a.

Subchapter XV. Appeal.

§ 47-1815.1. Right of aggrieved persons to judicial appeal.

Any person aggrieved by any assessment of a deficiency in tax determined and assessed by the Mayor under the provisions of § 47-1812.5 and any person aggrieved by the denial of any claim for refund made under the provisions of § 47-1812.11 may, within 6 months from the date of the assessment of the deficiency or from the date of the denial of a claim for refund, as the case may be, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, to 47-3308. (July 16, 1947, 61 Stat. 359, ch. 258, art. I, title XV, § 1; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, §§ 156(f), 161(k); 1973 Ed., § 47-1593; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cited in *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953); *Block v. District of Columbia*, 492 F.2d 646 (D.C. Cir. 1974); *Petworth Pharmacy, Inc. v. District of Columbia*, App. D.C., 335 A.2d 256 (1975);

Floyd E. Davis Mtg. Corp. v. District of Columbia, App. D.C., 455 A.2d 910 (1983); *District of Columbia v. Terris*, App. D.C., 604 A.2d 5 (1992).

Subchapter XVI. Rules and Regulations.

§ 47-1816.1. Rules and regulations — Tax provisions.

Unless otherwise provided, the Mayor shall prescribe such rules and regulations as the Mayor deems necessary to carry out the provisions of this chapter. (July 16, 1947, 61 Stat. 359, ch. 258, art. I, title XVI, § 1; 1973 Ed., § 47-1595; July 24, 1982, D.C. Law 4-131, § 107, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Mayor's authority to issue regulations necessary to carry out D.C. Law 4-131, see § 25-145.

As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 47-1814.1a and 47-1814.8.

Legislative history of Law 4-131. — See note to § 47-1801.4.

Mayor authorized to issue rules and regulations. — Section 201 of D.C. Law 4-118

provided that the "Mayor may prescribe such rules and regulations as the Mayor deems necessary to carry out the provisions of the District of Columbia Individuals, Estates, and Trusts Federal Conformity Tax Act of 1982."

Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Delegation of authority under Law 5-32. — See Mayor's Order 83-268, November 16, 1983.

§ 47-1816.2. Same — Revenue Act of 1956.

The Mayor is authorized to make rules and regulations to carry out the provisions of this Act. (Mar. 31, 1956, 70 Stat. 84, ch. 154, title VI, § 601; 1973 Ed., § 47-1595a; July 24, 1982, D.C. Law 4-131, § 108(a), (b), 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-131. — See note to § 47-1801.4.

References in text. — "This Act," referred

to in this section, is 70 Stat. 71, ch. 154, approved March 31, 1956.

§ 47-1816.3. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code.

(a) Within 90 days after any amendment, repeal, or replacement of the Internal Revenue Code of 1986, as that term is defined in § 47-1801.4(28), the Mayor shall report to the Council of the District of Columbia concerning the amendment, repeal, or replacement. The reports shall include, but not be limited to, an analysis of the impact of conformity to the amendment, repeal, or replacement on District of Columbia taxpayers, and on District of Columbia government revenues for 5 years thereafter, and a recommendation as to whether any change in District of Columbia law should be made as a result of the amendment, repeal, or replacement.

(b) On or before July 1, 1988, the Mayor shall report to Council concerning taxpayers whose tax liability exceeds the amount by which their taxable income exceeds the tax threshold, as defined in § 47-1806.4(e). The report shall include:

(1) An assessment of the number and income levels of the taxpayers affected;

(2) Methods for, and the revenue impact of eliminating these tax liabilities; and

(3) The Mayor's recommendation as to what action, if any, should be taken. (Oct. 8, 1983, D.C. Law 5-32, § 8, 30 DCR 4013; Oct. 1, 1987, D.C. Law 7-29, § 3, 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to general definitions applicable to income and franchise taxes, see § 47-1801.4.

Legislative history of Law 5-32. — Law 5-32, the "District of Columbia Income and Franchise Tax Conformity Act of 1983," was introduced in Council and assigned Bill No. 5-103, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and

July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-54 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-29. — See note to § 47-1801.1a.

Mayor authorized to issue regulations. — Section 9 of D.C. Law 5-32 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

CHAPTER 19. INHERITANCE AND ESTATE TAXES.

Subchapter I. Inheritance Tax.

Sec.
47-1901 to 47-1907. [Repealed].

Subchapter II. Estate Tax.

47-1911 to 47-1918. [Repealed].

Subchapter III. Miscellaneous Provisions.

Sec.
47-1921 to 47-1936. [Repealed].

Subchapter I. Inheritance Tax.

§§ 47-1901 to 47-1907. Imposition of tax; tax based on market value; appraisal; appraisal deemed true value; tax to be lien; exceptions; report by decedent's personal representative; contents; payment; collection of tax from distributive share; property not under control of personal representative; life and future estates; payment of tax; lien.

Repealed. Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.

Cross references. — As to the Inheritance and Estate Tax Revision Act of 1986, see §§ 47-3701 through 47-3723.

Legislative history of Law 6-168. — Law 6-168, the "Inheritance and Estate Tax Revision Act of 1986," was introduced in Council and assigned Bill No. 6-372, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings

on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 27, 1986, it was assigned Act No. 6-217 and transmitted to both Houses of Congress for its review.

Editor's notes. — Section 403(2) of D.C. Law 6-209 amended D.C. Law 6-168, § 24 so that the repeal is effective as of April 1, 1987.

Subchapter II. Estate Tax.

§§ 47-1911 to 47-1918. Imposition of tax; additional levy on transfers; credits; restriction; tax not to exceed difference between maximum credit and levy by states; benefits to District; tax on transfer of nonresidents' real and personal property; executor to file copy of federal return with Assessor; assessment on basis of return; tax payable within 17 months.

Repealed. Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.

Legislative history of Law 6-168. — See note to § 47-1901.

Editor's notes. — Section 403(2) of D.C.

Law 6-209 amended D.C. Law 6-168, § 24 so that the repeal is effective as of April 1, 1987.

Subchapter III. Miscellaneous Provisions.

§§ 47-1921 to 47-1936. Liability of bond for assessments; limitation; monthly report of names of decedents by Register of Wills; administration; testimony; production of books and records; arrears; enforcement; failure to file return; false return; penalty; wilful failure to pay taxes, make return; additional penalty; release of lien; transfers of assets; notice; portion retained to pay tax; Assessor to examine assets; issuance of certificate; Internal Revenue Service to supply information to Mayor; Assessor to determine tax if return not filed when due; Assessor may compound and settle tax; definitions; situs of intangibles; trust estates; aliens; compromise and settlement of taxes; secrecy of returns.

Repealed. Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.

Legislative history of Law 6-168. — See note to § 47-1901.

Editor's notes. — Section 402(e) of D.C. Law 6-209 amended §§ 47-1924 and 47-1926 to read as follows:

“§ 47-1924. Arrears.

If the taxes imposed by this chapter are not paid when due, interest shall be added to the tax in accordance with §§ 47-453 through 47-458, and said taxes shall be collected by the Collector of Taxes in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection.

§ 47-1926. Failure to file return; false return; penalty.

Any person required by this chapter to file a

return who fails to file such return within the time prescribed by this chapter, or within such additional time as may be granted under regulations promulgated by the Council of the District of Columbia, or who files a false or fraudulent return, shall become liable in his own person and estate to the District for the penalties added to the tax in accordance with §§ 47-453 through 47-458.”

Section 403(2) of D.C. Law 6-209 amended D.C. Law 6-168, § 24 so that the repeal is effective as of April 1, 1987.

CHAPTER 20. GROSS SALES TAX.

Sec.

- 47-2001. Definitions.
- 47-2002. Imposition of tax.
- 47-2002.1. Payment in lieu of collecting and remitting sales tax to be made by street vendors.
- 47-2002.2. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.
- 47-2002.3. Same — Collection of tax and transfer to Washington Convention Center Authority.
- 47-2003. Reimbursement of vendor for tax.
- 47-2004. Vendor to collect tax; credit for expenses; application.
- 47-2005. Exemptions.
- 47-2006. Application of exemption.
- 47-2007. Action for collection of taxes.
- 47-2008. Rules and regulations.
- 47-2009. Tax to be separately stated.
- 47-2010. Presumption of taxability.
- 47-2011. Tax a personal debt; period of limitation; liens.
- 47-2012. Tax a preferred claim; priority over property taxes.

Sec.

- 47-2013. Collection of tax; liens; jeopardy assessments; distraint.
- 47-2014. Assumption or refund of tax by vendor unlawful; penalties.
- 47-2015. Monthly returns.
- 47-2016. Payment of tax.
- 47-2017. Annual returns.
- 47-2018. Secrecy of returns; reciprocity.
- 47-2019. Determination of deficiencies.
- 47-2020. Refunds.
- 47-2021. Appeals.
- 47-2022. Sales in bulk.
- 47-2023. Rules and regulations.
- 47-2024. Additional powers.
- 47-2025. Examination of records and witnesses.
- 47-2026. Certificate of registration.
- 47-2027. Penalties and interest.
- 47-2028. Additional penalties for failure to comply with chapter.
- 47-2029. Assessment of and limitations on deficiencies.
- 47-2030. Prosecutions.
- 47-2031. Notices.
- 47-2032. Extensions of time.

§ 47-2001. Definitions.

(a) [Repealed].

(b) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

(c) "Collector" means the Collector of Taxes of the District or his duly authorized representatives.

(d) "Mayor" means the Mayor of the District of Columbia or his duly authorized representative or representatives.

(e) "District" means the District of Columbia.

(f) "Engaging in business" means commencing, conducting, or continuing in business, as well as liquidating a business when the liquidator thereof holds himself out to the public as conducting such a business.

(g) "Food or drink" means items sold for human or animal ingestion that are consumed for their taste or nutritional value. These items include, but are not limited to, baby foods and formula; baked goods; baking soda, baking powder, and baking mixes; bouillon; cereal and cereal products; cocoa and cocoa products; coffee and coffee substitutes; condiments; cooking wines; cough drops; edible cake decorations; egg and egg products; fish and fish products, including shellfish; fruit, fruit products, and fruit juices; gelatin; honey; ice cream; meat and meat products; milk and milk products; nondairy creamers; oleomargarine; pasta and pasta products; poultry and poultry products; powdered drinks, including health and diet drinks; salad dressings; salt and salt substitutes; sauces and gravies; snack foods; soups; spices and herbs;

sugar and sugar products; syrup and syrup substitutes; tea and tea substitutes; vegetables, vegetable products, and vegetable juices; vitamins; water; yogurt; pet foods; flavored extracts; ice; and any combination of these items. The term "food or drink" does not include spirituous or malt liquors, beers, and wines; drugs, medicines or pharmaceuticals; chewing tobacco; toothpaste; or mouthwash.

(g-1) "Food or drink prepared for immediate consumption" includes, but is not limited to, food or drink in a heated state (except heated baked goods whose heated state is solely a result of baking); sandwiches suitable for immediate consumption; prepared salads; salad bars; party platters; cold drinks dispensed in or with a cup or glass either by a retailer or on a self-service basis by the consumer; frozen yogurt, ice cream, or ice milk sold in quantities of less than one pint; and all food or drink, served by, or sold in or by, restaurants, lunch counters, cafeterias, hotels, caterers, boarding houses, carryout shops or like places of business.

(g-2) "Snack food" includes, but is not limited to, potato chips and sticks; corn or tortilla chips; pretzels; cookies; popped popcorn; pork rinds; cheese puffs and curls; crackers; fabricated snacks; snack cakes and pies, such as donuts, cake and pie slices, and other pastries that are baked or fried in, or sliced into, individual serving sizes; candy; chewing gum; nuts and edible seeds; marshmallows; mixtures that contain one or more snack foods; soft drinks; and fruit or vegetable drinks that contain less than 15% natural fruit or vegetable juice by volume. "Snack food" includes only those items that are sold suitable for consumption without further processing such as heating, cooking, or thawing. The term "snack food" does not include any food or drink included in subsection (g-1) of this section.

(h) "Gross receipts" means the total amount of the sales prices of the retail sales of vendors, valued in money, whether received in money or otherwise.

(i) "Person" includes an individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

(j) "Purchaser" includes a person who purchases property or to whom is rendered services, receipts from which are taxable under this chapter.

(k) "Purchaser's certificate" means a certificate signed by a purchaser and in such form as the Mayor shall prescribe, stating the purpose to which the purchaser intends to put the subject of the sale, or the status or character of the purchaser.

(l) "Retailer" includes:

- (1) Every person engaged in the business of making sales at retail;
- (2) Every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others; and
- (3) Every person engaged in the business of making sales for storage, use, or other consumption, or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(m) "Retail establishment" means any premises in which the business of selling tangible personal property is conducted or in or from which any retail sales are made.

(n)(1) "Retail sale" and "sale at retail" means the sale in any quantity or quantities of any tangible personal property or service taxable under the terms of this chapter. Said term shall mean all sales of tangible personal property to any person for any purpose other than those in which the purpose of the purchaser is to resell the property so transferred in the form in which the same is, or is to be, received by him, or to use or incorporate the property so transferred as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining. For the purpose of the tax imposed by this chapter, these terms shall include, but not be limited to, the following:

(A)(i) Sales of food or drink prepared for immediate consumption as defined in subsection (g-1) of this section;

(ii) Sales of food or drink when sold from vending machines; and

(iii) Sales of snack food as defined in subsection (g-2) of this section;

(B) Any production, fabrication, or printing of tangible personal property on special order for a consideration;

(C) The sale or charge for any room or rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The term "transient" means any person who occupies or who has the right to occupy any room or rooms, lodgings, or accommodations for a period of 90 days or less during any 1 continuous stay;

(D) The sale of natural or artificial gas, oil, electricity, solid fuel, or steam, when made to any purchaser for purposes other than resale or for use in manufacturing, assembling, processing, or refining;

(E) The sale of material used in the construction, and of materials used in the repair or alteration, of real property, which materials, upon completion of such construction, alterations, or repairs, become real property, regardless of whether or not such real property is to be sold or resold;

(F) The sale or charges for possession or use of any article of tangible personal property granted under a lease or contract, regardless of the length of time of such lease or contract or whether such lease or contract is oral or written; in such event, for the purposes of this chapter, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rental paid; provided, however, that the gross proceeds from the rental of films, records, or any type of sound transcribing to theaters and radio and television broadcasting stations shall not be considered a retail sale;

(G)(i) The sale of or charges to subscribers for local telephone service. The inclusion of such sales and charges in the definition of the terms "retail sale" and "sale at retail" shall not authorize any tax to be imposed under this chapter on so much of any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.

(ii) The term “local telephone service” means:

(I) The access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; and

(II) Any facility or service provided in connection with a service described in clause (I) of this sub-subparagraph. The term “local telephone service” does not include any service which is a “toll telephone service” or a “private communication service” as defined in sub-subparagraphs (iii) and (iv) of this subparagraph.

(iii) The term “toll telephone service” means:

(I) A telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and the charge is paid within the United States; and

(II) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

(iv) The term “private communication service” means:

(I) The communication service furnished to a subscriber which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the use of an intercommunication system for the subscriber’s stations, regardless of whether such channel, or groups of channels, or intercommunication system may be connected through switching with a service described in sub-subparagraph (ii) or (iii) of this subparagraph;

(II) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of, channels, or systems described in clause (I) of this sub-subparagraph; and

(III) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system, except that such term does not include any communication service unless a separate charge is made for such service;

(H) The sale of or charges for admission to public events, except live performances of ballet, dance, or choral performances, concerts (instrumental and vocal), plays (with and without music), operas and readings and exhibitions of paintings, sculpture, photography, graphic and craft arts, but including movies, circuses, burlesque shows, sporting events, and performances or exhibitions of any other type or nature; provided, that any casual or isolated sale of or charge for admission made by a semipublic institution not regularly engaged in asking such sales or charges shall not be considered a retail sale or sale at retail;

(I) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal

property as a repair or replacement part of other tangible personal property, whether or not such service is performed by other means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service;

(J) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services;

(K) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when such service is performed by means of self-service, coin-operated equipment, and the rental of textiles to commercial users when the essential part of the rental includes the recurring service of laundering or cleaning thereof;

(L) The sale of or charge for the service of parking, storing, or keeping motor vehicles or trailers, except that:

(i) Where a sale or charge for the service described in this subparagraph is made to a District resident who is a tenant in an apartment house or the owner of a condominium unit or a cooperative unit in which he or she resides, and the motor vehicle or trailer of the tenant or owner is parked, stored or kept on the same premises on which the tenant or owner has his or her place of residence, except as otherwise provided in this paragraph the sale or charge is exempt from the tax imposed by this subparagraph. The exemption shall not extend to a tenant or owner whose motor vehicle or trailer is used for commercial purposes or whose occupancy of the building is for commercial purposes; or

(ii)(I) Where the sale or charge for the service is made to a District resident who possesses and shows to those providing the service a parking sales tax exemption card issued and signed by the Mayor or his or her duly authorized representative pursuant to sub-subparagraph (iii) of this subparagraph, the sale or charge is exempt from the tax imposed by this paragraph;

(II) This exemption shall extend only to those District residents using the service for the purpose of keeping their vehicles or trailers near their place of residence and shall not extend to a resident whose motor vehicle or trailer is used for commercial purposes, as ascertained by the Mayor or his or her duly authorized representative;

(iii) Upon application by a District resident, the Mayor shall issue to him or her a parking sales tax exemption card; provided, that the resident:

(I) Possesses a District motor vehicle or trailer registration certificate and identification tag for the motor vehicle or trailer to be parked, if so required by § 40-102(a);

(II) Has registered the vehicle or trailer to a residential address in the District, if a registration certificate is required by § 40-102(a), which address is located within one-half mile of the address of the business or operation providing the service; and

(III) Provides the Mayor the name and address of the business or operation to provide the service;

(iv) The parking sales tax exemption card shall state the name and address of the person to whom it is issued, the name and address of the

business or operation to provide the service, and any other information, including a photograph, deemed necessary by the Mayor;

(v) For the purpose of this paragraph, the term:

(I) "Motor vehicle" means any vehicle propelled by an internal-combustion engine or by electricity or steam, except road rollers, farm tractors, and vehicles propelled only upon stationary rails or tracks; and

(II) "Trailer" means a vehicle without motor power intended or used for carrying property or persons and drawn or intended to be drawn by a motor vehicle, whether such vehicle without motor power carries the weight of the property or persons wholly on its own structure or whether a part of such weight rests upon or is carried by a motor vehicle;

(M) The sale of or charges for the service of real property maintenance and landscaping.

(i) For the purposes of this paragraph, the term "real property maintenance" means any activity that keeps the land or the premises of a building clean, orderly, and functional, including the performance of minor adjustments, maintenance, or repairs which include: floor, wall, and ceiling cleaning; pest control; window cleaning; servicing inground and in building swimming pools; exterior building cleaning; parking lot, garage, and recreation area maintenance; exterior and interior trash removal; restroom cleaning and stocking; lighting maintenance; chimney and duct cleaning; and ground maintenance; but does not include; painting, wallpapering, or other services performed as part of construction or major repairs; or services performed under an employee-employer relationship.

(ii) For the purposes of this paragraph, the term "landscaping" means the activity of arranging or modifying areas of land and natural scenery for an improved or aesthetic effect; the addition, removal, or arrangement of natural forms, features, and plantings; the addition, removal, or modification of retaining walls, ponds, sprinkler systems, or other landscape construction services; and other services provided by landscape designers or landscape architects such as consultation, research, preparation of general or specific design or detail plans, studies, specifications or supervision, or any other professional services or functions associated with landscaping;

(N) The sale of or charges for data processing and information services.

(i) For the purposes of this paragraph, the term "data processing service" means the processing of information for the compilation and production of records of transactions; the maintenance, input, and retrieval of information; the provision of direct access to computer equipment to process, examine, or acquire information stored in or accessible to the computer equipment; the specification of computer hardware configurations, the evaluation of technical processing characteristics, computer programming or software, provided in conjunction with and to support the sale, lease, operation, or application of computer equipment or systems; word processing, payroll and business accounting, and computerized data and information storage and manipulation; the input of inventory control data for a company; the maintenance of records of employee work time; filing payroll tax returns; the preparation of W-2 forms; the computation and preparation of payroll checks; and any system or application programming or software.

(ii) For the purposes of this paragraph, the term “information service” means the furnishing of general or specialized news or current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by wire, cable, radio waves, microwaves, satellite, fiber optics, or any other method in existence or which may be devised; electronic data retrieval or research, including newsletters, real estate listings, or financial, investment, circulation, credit, stock market, or bond rating reports; mailing lists; abstracts of title; news clipping services; wire services; scouting reports; surveys; bad check lists; and broadcast rating services; but does not include: information sold to a newspaper or a radio or television station licensed by the Federal Communication Commission, if the information is gathered or purchased for direct use in newspapers or radio or television broadcasts; charges to a person by a financial institution for account balance information; or information gathered or compiled on behalf of a particular client, if the information is of a proprietary nature to that client and may not be sold to others by the person who compiled the information, except for a subsequent sale of the information by the client for whom the information was gathered or compiled.

(iii) The term “data processing services” does not include a service provided by a member of an affiliated group of corporations to other corporate members of the group. Data processing services shall be exempt from sales tax if the service is rendered by a member of the affiliated group of corporations, has not been purchased with a certificate of resale or exemption by the corporation that provides the service, is rendered for the purpose of expense allocation, and is not for the profit of the corporation providing the service. For the purposes of this sub-subparagraph, the term “affiliated group” shall have the same meaning as defined in 26 U.S.C. § 1504(a);

(O) The sale of or charge for any newspaper or publication;

(P)(i) The sale of or charges for cellular mobile telecommunication services, specialized mobile radio services, paging services, dispatch services, stationary two-way radio services, telegraph services, teletypewriter services, and teleconferencing services. The sale of or charges for services listed in this subparagraph shall not be considered sales of or charges for private communication services as defined in subparagraph (G)(iv) of this paragraph;

(ii) The sale of or charges for “900”, “976”, “915”, and other “900”-type telecommunication services;

(iii) The sale of or charges for telephone answering services, including automated services and services provided by human operators;

(iv) The sale of or charges for telephone services rendered by means of coin-operated telephones; and

(v) The sale of or charges for services enumerated in sub-subparagraphs (i) through (iv) of this subparagraph shall not include sales of or charges for services that are subject to tax under § 47-2501 or Chapter 39 of this title;

(Q) The sale of or charge for any delivery in the District for which a separate charge is made, except merchandise delivered for resale for which a District of Columbia certificate of resale has been issued or the delivery of any newspapers;

(R) The sale of or charge for the service of procuring, offering, or attempting to procure in the District job seekers for employers or employment for job seekers, including employment advice, counseling, testing, resume preparation and any other related services;

(S) The sale of or charge for the service of placing a job seeker with an employer in the District; or

(T) The sale of a prepaid telephone calling card, even if no card has been issued. Notwithstanding any other provision of law, any sale of a prepaid telephone calling card on or after October 1, 1997, shall be deemed the sale of tangible personal property subject only to such taxes as are imposed on the sale of food for immediate consumption as defined under subsection (g-1) of this section, even where no card has been issued. Gross receipts or charges from the sale of the telecommunication service purchased through the use of a prepaid telephone calling card, even if no card has been issued, shall not be subject to the taxes imposed under § 47-2501 et seq. or § 47-3901 et seq.

(2) The terms "retail sale" and "sale at retail" shall not include the following:

(A) Sales of transportation and communication services other than sales of data processing services, information services, local telephone service, or any service enumerated in paragraph (1)(P) of this subsection;

(B) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in paragraph (1) of this subsection;

(C) Any sale in which the only transaction in the District is the mere execution of the contract of sale and in which the tangible personal property sold is not in the District at the time of such execution; provided, however, that nothing contained in this subsection shall be construed to be an exemption from the tax imposed under Chapter 22 of this title;

(D) Sales to a common carrier or sleeping car company by a corporation all of whose capital stock is owned by 1 or more common carriers or sleeping car companies of tangible personal property, procured or acquired by such corporation outside the District, which consists of repair or replacement parts used for the maintenance or repair of any train operating principally without the District in the course of interstate commerce, or commerce between the District and a state, provided such sales are made in connection with the furnishing of terminal services pursuant to a written agreement entered into before January 1, 1963; or

(E) Sales of food or drink as defined in subsection (g) of this section, except sales of food or drink for immediate consumption as defined in subsection (g-1) of this section, and snack food as defined in subsection (g-2) of this section.

(o) "Return" includes any return filed or required to be filed as herein provided.

(p)(1) "Sales price" means the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(A) The cost of the property sold;

(B) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses;

(C) The cost of transportation of the property prior to its sale at retail. The total amount of the sales price includes all of the following:

(i) Any services that are a part of the sale; and

(ii) Any amount for which credit is given to the purchaser by the vendor; or

(D) Amounts charged for any cover, minimum, entertainment, or other service in hotels, restaurants, cafes, bars, and other establishments where meals, food or drink, or other like tangible personal property is furnished for a consideration.

(2) The term "sales price" does not include any of the following:

(A) Cash discounts allowed and taken on sales;

(B) The amount charged for property returned by purchasers to vendors upon rescission of contracts of sale when the entire amounts charged therefor are refunded either in cash or credit, and when the property is returned within 90 days from the date of sale;

(C) The amount separately charged for labor or services rendered in installing or applying the property sold, except as provided in subsection (n)(1) of this section;

(D) The amount of reimbursement of tax paid by the purchaser to the vendor under this chapter; or

(E) Transportation charges separately stated, if the transportation occurs after the sale of the property is made.

(q) "Sale" and "selling" mean any transaction whereby title or possession, or both, of tangible personal property is or is to be transferred by any means whatsoever, including rental, lease, license, or right to reproduce or use, for a consideration, by a vendor to a purchaser, or any transaction whereby services subject to tax under this chapter are rendered for consideration or are sold to any purchaser by any vendor, and shall include, but not be limited to, any "sale at retail" as defined in this chapter. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, in the future, or by installments.

(r) "Semipublic institution" means any corporation, and any community chest, fund, or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. For the purpose of this chapter an organization or institution which does not embrace the generally recognized relationship of teacher and student shall be deemed not to be operated for educational purposes.

(s) "Tangible personal property" means corporeal personal property of any nature.

(t) "Tax" means the tax imposed by this chapter.

(u) "Taxpayer" means any person required by this chapter to make returns or to pay the tax imposed by this chapter.

(v) "Tax year" means the calendar year, or the taxpayer's fiscal year if it be other than the calendar year when such fiscal year is regularly used by the

taxpayer for the purpose of reporting District income taxes as the tax period in lieu of the calendar year.

(w) "Vendor" includes a person or retailer selling property or rendering services upon the receipts from which a tax is imposed under this chapter.

(x) The foregoing definitions shall be applicable whenever the words defined are used in this chapter unless otherwise required by the context. (May 27, 1949, 63 Stat. 112, ch. 146, title I, §§ 101-124; May 18, 1954, 68 Stat. 117, ch. 218, title XIII, §§ 1301, 1302; Mar. 31, 1956, 70 Stat. 80, ch. 154, title II, §§ 201-203; Sept. 2, 1964, 78 Stat. 847, Pub. L. 88-564, § 1; Aug. 2, 1968, 82 Stat. 613, Pub. L. 90-450, title III, §§ 301, 302, 303; Oct. 31, 1969, 83 Stat. 169, Pub. L. 91-106, title I, §§ 101, 102, 103; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(a)(1); 1973 Ed., § 47-2601; Sept. 3, 1974, 88 Stat. 1064, Pub. L. 93-407, title IV, § 473; Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 8(b); Oct. 21, 1975, D.C. Law 1-23, title III, § 301(1)-(6), 22 DCR 2097; Apr. 9, 1976, D.C. Law 1-61, § 2, 22 DCR 5893; June 15, 1976, D.C. Law 1-70, title IV, §§ 401, 402, 23 DCR 533; June 24, 1977, D.C. Law 2-11, § 2, 24 DCR 1773; Sept. 13, 1980, D.C. Law 3-92, § 201(a), 27 DCR 3390; Apr. 30, 1982, D.C. Law 4-105, § 2, 29 DCR 1405; July 24, 1982, D.C. Law 4-131, §§ 201, 202, 223, 29 DCR 2418; Sept. 26, 1984, D.C. Law 5-113, § 201(a), (d), 31 DCR 3974; Apr. 30, 1988, D.C. Law 7-104, § 38, 35 DCR 147; July 26, 1989, D.C. Law 8-17, § 4(a), 36 DCR 4160; May 4, 1990, D.C. Law 8-119, § 3, 37 DCR 1738; July 23, 1992, D.C. Law 9-134, § 107(a), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 107(a), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 111(a)-(d), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(a)-(d), 40 DCR 5489; Feb. 5, 1994, D.C. Law 10-68, § 46, 40 DCR 6311; Apr. 30, 1994, D.C. Law 10-115, § 203(a), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 104(a), 41 DCR 2096; Mar. 21, 1995, D.C. Law 10-242, § 14(a), 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 59, 43 DCR 530; Apr. 12, 1997, D.C. Law 11-257, § 6, 44 DCR 1247; enacted, Apr. 9, 1997, D.C. Law 11-524, § 2, 44 DCR 1575.)

Cross references. — As to Mayor's authority to issue regulations necessary to carry out D.C. Law 4-131, see § 25-145.

As to payment of sales tax in determining transient occupancy status of rental units, see § 45-2503.

Section references. — This section is referred to in §§ 45-1603, 45-2503, 47-2002, 47-2002.2, 47-2005, 47-2201, 47-2202, 47-2202.1, and 47-2501.

Effect of amendments. — D.C. Law 10-242 added "or the delivery of any newspapers" at the end of (n)(1)(Q).

D.C. Law 11-110 substituted "or any service enumerated in paragraph (16) of subsection (a) of this section" for "or the sale of or charge for any delivery in the District for which a separate charge is made, or any service enumerated in paragraph (1)(P) of this subsection" in (n)(2)(A).

D.C. Law 11-257 added (n)(1)(T).

Emergency act amendments. — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the

sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

Legislative history of Law 1-23. — Law 1-23, the "Revenue Act of 1975," was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-61. — Law 1-61, the "Revenue Act of 1975 — Third Amendment," was introduced in Council and assigned

Bill No. 1-215, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 19, 1975 and January 13, 1976, respectively. Signed by the Mayor on February 6, 1976, it was assigned Act No. 1-91 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-70. — Law 1-70, the “Revenue Act of 1976,” was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-11. — Law 2-11, the “Residential Parking Tax Exemption Act,” was introduced in Council and assigned Bill No. 2-62, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 22, 1977 and April 5, 1977, respectively. Signed by the Mayor on April 25, 1977, it was assigned Act No. 2-32 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-92. — Law 3-92, the “District of Columbia Revenue Act of 1980,” was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-105. — Law 4-105, the “Candy, Confectionery, Soft Drink, and Chewing Gum Sales Tax Amendment Act of 1981,” was introduced in Council and assigned Bill No. 4-231, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-166 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned

Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-104. — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-119. — Law 8-119, the “Tax Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-371, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Approved without the signature of the Mayor on March 6, 1990, it was assigned Act No. 8-173 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-134. — Law 9-134, the “Omnibus Budget Support Temporary Act of 1992,” was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 10-11. — See note to § 47-2002.1.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Legislative history of Law 10-32. — Law 10-32, the “Sales and Use Tax on Newspapers Temporary Amendment Act of 1993,” was introduced in Council and assigned Bill No. 10-318. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July 29, 1993, it was assigned Act No. 10-64 and transmitted to both Houses of Congress for its review. D.C. Law 10-32 became effective on October 15, 1993.

Legislative history of Law 10-68. — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-115. — Law 10-115, the “Financial Administration Revision and Clarification Act of 1994,” was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

Legislative history of Law 10-128. — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 10-242. — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the

Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 11-216. — Law 11-216, the “Economic Recovery Conformity Temporary Act of 1996,” was introduced in Council and assigned Bill No. 11-829. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-414 and transmitted to both Houses of Congress for its review. D.C. Law 11-216 became effective April 9, 1997.

Legislative history of Law 11-248. — Law 11-248, the “Recorder of Deeds Recordation Surcharge Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-670, which was referred to the Committee of the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-512 and transmitted to both Houses of Congress for its review. D.C. Law 11-248 became effective on April 9, 1997.

Legislative history of Law 11-260. — Law 11-260, the “Natural and Artificial Gas Gross Receipts Tax Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-950, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 1996, and January 7, 1997, respectively. Signed by the Mayor on January 23, 1997, it was assigned Act No. 11-527 and transmitted to both Houses of Congress for its review. D.C. Law 11-260 became effective on April 25, 1997.

Effective date. — Section 3(b) of D.C. Law 4-105 provided that the provisions of § 2 of the act shall take effect on the first day of the first month which begins more than 30 days after April 30, 1982.

Effective date of § 201 of Law 5-113. — Section 202 of D.C. Law 5-113 provided that § 201 shall take effect October 1, 1984.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

Temporary prohibition on the increase in certain taxes. — Section 2 of D.C. Law 11- (D.C. Act 11-414) prohibits, on a temporary basis, the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of the federal income tax applicable solely to residents of the District of Columbia under the Internal Revenue Code of 1986.

Section 5(b) of D.C. Law 11- (D.C. Act 11-414)

provided that the act shall expire after 225 days of its having taken effect.

Office of Collector of Taxes abolished. — See note to § 47-401.

Professional, insurance, or personal service transactions. — The statutory exclusions in subsection (n)(2)(B) of this section and § 47-2201 (a)(2)(B) of this section apply to professional and creative services of writers and there is no justification for the imposition of tax on the services of petitioner's free-lance authors. *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

Court reporting services are exempt from tax. — Court reporting services are not public stenographic services and are exempt from sales and use taxes pursuant to subsection (n)(2)(B) of this section and § 47-2201

(a)(2)(B). *Acme Reporting Co. v. District of Columbia*, 113 WLR 1533 (Super. Ct. 1985), aff'd, *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

A purchaser must reimburse vendor who failed to charge sales or use tax. *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

Cited in *District of Columbia v. Norwood Studios, Inc.*, 336 F.2d 746 (D.C. Cir. 1964); *Debevoise v. Back*, App. D.C., 359 A.2d 279 (1976); *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981); *Acme Reporting Co. v. District of Columbia*, 112 WLR 2565 (Super. Ct. 1984); "N" *St. Follies Ltd. Partnership v. District of Columbia Rental Hous. Comm'n*, App. D.C., 622 A.2d 61 (1993).

§ 47-2002. Imposition of tax.

A tax is imposed upon all vendors for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as "retail sale" and "sale at retail" in this chapter). The rate of such tax shall be 5.75%, except for the period beginning June 1, 1994, and ending September 30, 1994, the rate shall be 7%, of the gross receipts from sales of or charges for such tangible personal property and services, except that:

(1) The rate of tax shall be 12% of the gross receipts from the sale of or charges for the service of parking or storing of motor vehicles or trailers, except the service of parking or storing of motor vehicles or trailers on a parking lot owned or operated by the Washington Metropolitan Area Transit Authority and located adjacent to a Washington Metropolitan Area Transit Authority passenger stop or station;

(2) The rate of tax shall be 10.5% of the gross receipts from the sale of or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients;

(3) The rate of tax shall be 95 of the gross receipts from the sale of or charges for:

(A) Food or drink prepared for immediate consumption as defined in § 47-2001(g-1);

(B) Spirituous or malt liquors, beers, and wine sold for consumption on the premises where sold; and

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 40-111;

(3A) The rate of tax shall be 8% of the gross receipts of the sales of or charges for spirituous or malt liquors, beers, and wine sold for consumption off the premises where sold; and

(4) [Repealed]. (May 27, 1949, 63 Stat. 115, ch. 146, title I, § 125; May 18, 1954, 68 Stat. 117, ch. 218, title XIII, § 1303; Mar. 2, 1962, 76 Stat. 10, Pub.

L. 87-408, § 101(a); Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 301(a); Aug. 2, 1968, 82 Stat. 614, Pub. L. 90-450, title III, § 304; Oct. 31, 1969, 83 Stat. 170, Pub. L. 91-106, title I, § 104; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(a)(2); Aug. 29, 1972, 86 Stat. 643, Pub. L. 92-410, title III, § 301(a)(1), (2); 1973 Ed., § 47-2602; Oct. 21, 1975, D.C. Law 1-23, title III, § 301(7), 22 DCR 2099; June 15, 1976, D.C. Law 1-70, title IV, § 408, 23 DCR 541; Mar. 6, 1979, D.C. Law 2-157, § 6, 25 DCR 6995; Sept. 13, 1980, D.C. Law 3-92, § 201(b), 27 DCR 3390; Sept. 26, 1984, D.C. Law 5-113, § 201(b), (c), 31 DCR 3974; July 26, 1989, D.C. Law 8-17, § 4(b), 36 DCR 4160; July 23, 1992, D.C. Law 9-134, § 107(b), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 107(b), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 111(e), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(e), 40 DCR 5489; June 14, 1994, D.C. Law 10-128, § 104(b), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 302(a), 41 DCR 5333; May 16, 1995, D.C. Law 10-255, § 44, 41 DCR 5193; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 1-2466, 31-2509, 47-813, 47-2002.2, 47-2002.3, 47-2205, 47-2733, and 47-2734.

Effect of amendments. — D.C. Law 10-255 redesignated (3a) as (3A).

Legislative history of Law 1-23. — See note to § 47-2001.

Legislative history of Law 1-70. — See note to § 47-2001.

Legislative history of Law 2-157. — Law 2-157, the “Rental Vehicle Tax Reform Act of 1978,” was introduced in Council and assigned Bill No. 2-284, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-326 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-92. — See note to § 47-2001.

Legislative history of Law 5-113. — See note to § 47-2001.

Legislative history of Law 8-17. — See note to § 47-2001.

Legislative history of Law 9-134. — See note to § 47-2001.

Legislative history of Law 9-145. — See note to § 47-2001.

Legislative history of Law 10-11. — See note to § 47-2002.1.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Legislative history of Law 10-128. — See note to § 47-2001.

Legislative history of Law 10-188. — See note to § 47-2002.2.

Legislative history of Law 10-255. — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

Effective date of § 201 of Law 5-113. — See note to § 47-2001.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-2002.2.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority. — See note to § 47-2002.2.

Imposition or increase in tax constitutional. — The imposition of a new tax or an increase in the rate of an old one is one of the usual hazards of business, and it does not ordinarily impair the obligation of a preexisting contract. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882 (D.C. Cir.), cert. denied, 346 U.S. 900, 74 S. Ct. 227, 98 L. Ed. 400 (1953).

Purchase of property taxable event. — It is the purchase or use of property itself, and not the signing of the contracts ultimately necessitating the purchase, which is the taxable event. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882 (D.C. Cir.), cert. denied, 346 U.S. 900, 74 S. Ct. 227, 98 L. Ed. 400 (1953).

Cited in *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2002.1. Payment in lieu of collecting and remitting sales tax to be made by street vendors.

(a) For the purpose of this section:

(1) The terms "Class A licenses," "Class A temporary licenses," "Class B licenses," "Class B temporary licenses," "Class C nonfood licenses," and "Class C food licenses" shall have the same meaning as in § 6(b)(1) through (6) of A Regulation Governing Vending Businesses in Public Space (Reg. 74-39; 24 DCMR 502.4(a) through (f)); and

(2) The term "street vendor" shall mean a person who holds a "Class A license," "Class A temporary license," "Class B license," "Class B temporary license," "Class C nonfood license," or "Class C food license."

(b)(1) Notwithstanding any other provision of law, every street vendor shall make payments in lieu of collecting and remitting sales tax, as prescribed in this subsection.

(2) On or before January 20, 1994, and on or before the 20th day of every January, April, July, and October thereafter, every vendor who holds a Class A license, Class B license, Class C nonfood license, Class C food license, or any combination of these licenses, shall make a \$375 payment to the Mayor in lieu of collecting and remitting sales tax for the immediately preceding 3 months.

(3) If an individual required to make a payment in lieu of collecting and remitting sales tax in paragraph (2) of this subsection does not have his or her license for the full 3 months preceding a payment required in paragraph (2) of this subsection, the individual shall pay an apportioned amount of the payment in lieu of collecting and remitting sales tax based upon the number of months the individual held his or her license.

(4) A vendor who holds either a Class A temporary license, Class B temporary license, or both, shall make a \$125 payment in lieu of collecting and remitting sales tax to the Mayor on or before the 10th day following the expiration of his or her license.

(c) All payments in lieu of collecting and remitting sales tax made pursuant to subsection (b) of this section must be made in cash or by cashier's check, certified check, or money order.

(d) If a street vendor fails to make a payment in lieu of collecting and remitting sales tax on or before the prescribed payment date, any amount of the unpaid payment shall be considered unpaid sales tax and all sections of this chapter applicable to the collection and assessment of unpaid sales tax, and the imposition of interest and penalties, shall be applicable to unpaid payments in lieu of collecting and remitting sales tax. (May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125, as added Aug. 6, 1993, D.C. Law 10-11, § 111(f), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(f), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 9-802, 47-2002.3, 47-2003, and 47-2004.

Legislative history of Law 10-11. — Law 10-11, the "Omnibus Budget Support Tempo-

rary Act of 1993," was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned

Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the

Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

§ 47-2002.2. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.

A tax, separate from, and in addition to, the tax imposed pursuant to § 47-2002, is imposed on vendors engaging in the business activities listed in paragraphs (1) and (2) of this section for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as “retail sales” and “sale at retail” pursuant to § 47-2001(n)(1)). The rate of the tax shall be:

(1) 2.5% of the gross receipts for the sale or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(2) 1% of the gross receipts from the sale or charges made for:

(A) Food or drink prepared for immediate consumption, or sold as described in § 47-2001(n)(1)(A);

(B) Spiritous or malt liquors, beers, and wine sold for consumption on the premises where sold; or

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 40-111(8) and (9). (May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125a, as added Sept. 28, 1994, D.C. Law 10-188, § 302(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-188. — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and Sequential to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994 if the Board does not submit final financial requirements and a feasibility analysis to the mayor and the Council as provided by § 9-707(h).

For temporary amendment of D.C. Law 10-

188, § 306(a), see § 2(b) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Audit of accounts and operation of Authority. — Section 305(a) of D.C. Law 10-188 provided that “on or before July 1 of each year, the District of Columbia Auditor, pursuant to the Auditor’s duties under § 47-117(b), shall audit the accounts and operation of the Authority and made a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year.”

Section 305(b) of D.C. Law 10-188 provided that “If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient

to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the

difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-807(g)."

§ 47-2002.3. Same — Collection of tax and transfer to Washington Convention Center Authority.

(a) The Mayor shall collect the tax imposed pursuant to § 47-2002.1 on behalf of the Washington Convention Center Authority and shall transfer the revenue from the tax to the Washington Convention Center Authority Fund established pursuant to § 9-809.

(b) The Mayor may develop and apply a fixed formula to the taxes imposed pursuant to §§ 47-2002 and 47-2002.1 to determine the amount that shall be transferred to the Authority. (May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125b, as added Sept. 28, 1994, D.C. Law 10-188, § 302(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-188. — See note to § 47-2002.2.

Audit of accounts and operation of Authority. — See note to § 47-2002.2.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-2002.2.

§ 47-2003. Reimbursement of vendor for tax.

(a) Reimbursement for the tax imposed upon the vendor shall be collected by the vendor, except a street vendor as defined in § 47-2002.1(a)(2), from the purchaser on all sales the gross receipts from which are subject to the tax imposed by this chapter so far as it can be done. It shall be the duty of each purchaser in the District to reimburse the vendor, as provided in § 47-2004, for the tax imposed by this chapter. Such reimbursement of tax shall be a debt from the purchaser to the vendor and shall be recoverable at law in the same manner as other debts.

(b) In the event that the vendor shall collect a tax in excess of the reimbursement schedule rates provided for in this chapter, such excess shall be refunded to the purchaser, or in lieu thereof, shall become a debt to the District in the same manner as taxes due and payable under this chapter. (May 27, 1949, 63 Stat. 115, ch. 146, title I, § 126; 1973 Ed., § 47-2603; July 24, 1982, D.C. Law 4-131, § 203, 29 DCR 2418; Aug. 6, 1993, D.C. Law 10-11, § 111(g), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(g), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2004, 47-2203 and 47-2204.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Legislative history of Law 4-131. — See note to § 47-2001.

Limitations period. — Cause of action by vendor against purchaser for reimbursement of sales taxes paid by the vendor under this section is subject to the 3-year limitations period of

Legislative history of Law 10-11. — See note to § 47-2002.1.

§ 12-301(8). *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

Cause of action for reimbursement by purchaser to vendor for sales taxes under this section accrues at the time the sales tax became due and payable under §§ 47-2015 and 47-2016. *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

Cited in *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981); *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987); *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

§ 47-2004. Vendor to collect tax; credit for expenses; application.

(a) For the purpose of collecting his reimbursement as provided in § 47-2003 insofar as it can be done and yet eliminate the fractions of a cent, the vendor, except a street vendor as defined in § 47-2002.1(a)(2), shall add to the sales price and collect from the purchaser such amounts as may be prescribed by the Mayor to carry out the purposes of this section.

(b) A vendor, except a street vendor as defined in § 47-2002.1(a)(2), shall be entitled to apply and credit against the amount of tax payable by the vendor an amount equal to the lesser of \$5,000 or 1% of the gross tax to be remitted by the vendor to cover the vendor's expense incurred in the collection and remittance of the tax. Nothing contained in this subsection shall apply to a vendor who fails or refuses to file the tax return or pay the tax within the time prescribed by §§ 47-2015, 47-2016, and 47-2017. (May 27, 1949, 63 Stat. 115, ch. 146, title I, § 127; 1973 Ed., § 47-2604; Oct. 21, 1975, D.C. Law 1-23, title III, § 301(8), 22 DCR 2100; July 24, 1982, D.C. Law 4-131, § 204, 29 DCR 2418; July 26, 1989, D.C. Law 8-17, § 4(c), 36 DCR 4160; Aug. 6, 1993, D.C. Law 10-11, § 111(h), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(h), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 47-2003, 47-2203, and 47-2204.

Legislative history of Law 1-23. — See note to § 47-2001.

Legislative history of Law 4-131. — See note to § 47-2001.

Legislative history of Law 8-17. — See note to § 47-2001.

Legislative history of Law 10-11. — See note to § 47-2002.1.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989); *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

§ 47-2005. Exemptions.

Gross receipts from the following sales shall be exempt from the tax imposed by this chapter:

(1) Sales to the United States or the District or any instrumentality thereof except sales to national banks and federal savings and loan associations;

(2) Sales to a state or any of its political subdivisions if such state grants a similar exemption to the District. As used in this paragraph, the term "state" means the several states, territories, and possessions of the United States;

(3) Sales to semipublic institutions; provided, however, that such sales shall not be exempt unless:

(A) Such institution shall have first obtained a certificate from the Mayor stating that such institution is entitled to such exemption;

(B) The vendor keeps a record of the sale, the name of the purchaser, the date of each separate sale, and the number of such certificate;

(C) Such institution is located within the District, carries on its activities to a substantial extent within the District, and such activities result in substantial benefits to citizens of the District; and

(D) The property or services purchased are for use or consumption, or both, in maintaining, operating, and conducting the institution for the purpose for which it was organized or for honoring the institution or its members;

(4) Sales of materials and services to the printing clerks of the majority and minority rooms of the House of Representatives for use in the operation of such rooms, and sales of materials and services made by such clerks in connection with the operation of such rooms;

(5)(A) Sales of personal property purchased by a utility or a public-service company for use or consumption in furnishing a service or commodity, if the charges from furnishing the service or commodity are subject to a gross receipts tax or a mileage tax in force in the District for the period of time covered by a return required to be filed by the provisions of this chapter. If the personal property purchased is used both to produce receipts or charges subject to a gross receipts tax or a mileage tax and receipts or charges not subject to a gross receipts tax or a mileage tax, then this sales tax exemption shall be allocated in accordance with rules issued by the Mayor.

(B) Beginning on October 1, 1994, sales of personal property purchased by a telecommunication company, as defined in § 47-3901(5), irrespective of whether the property is used or consumed in furnishing a service, the charges from which are subject to the gross receipts tax imposed by § 47-2501(b), or Chapter 39 of this title. For the purposes of this subsection, the term "personal property" shall not include office equipment or office furniture;

(6) [Repealed];

(7) Casual and isolated sales by a vendor who is not regularly engaged in the business of making sales at retail;

(8) Sales of food or drink, beverages, and other goods made to any person for use in the operation of the majority and minority cloakrooms of the House of Representatives and sales of such food or drink, beverages, and other goods made by such person in connection with the operation of such cloakrooms;

(9) Sales of food or drink or beverages of any nature if made in any car composing a part of any train or in any aircraft or boat operating within the District in the course of commerce between the District and a state;

(10) Sales of goods made pursuant to bona fide contracts entered into before May 27, 1949; provided, that there is a contract in writing signed by the purchaser and vendor which imposes an unconditional liability on the part of the purchaser to buy the goods covered thereby at a fixed price and without escalator clause, and an unconditional liability on the part of the vendor to deliver a definite quantity of such goods at the contract price;

(11) Sales of natural or artificial gas, oil, electricity, solid fuel, or steam, directly used in manufacturing, assembling, processing, or refining;

(12) Sales which a state would be without power to tax under the limitations of the Constitution of the United States;

(13) Sale of motor vehicles and trailers which are subject to the provisions of Title III of the District of Columbia Revenue Act of 1949;

(14) Sales of medicines, pharmaceuticals, and drugs whether or not made on prescriptions of duly licensed physicians and surgeons and general and special practitioners of the healing art;

(15)(A) Sales of bone screws, bone pins, pacemakers, and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; orthopedic devices designed to be worn on the person of the user as a brace, support, or correction for the body structure, except orthopedic shoes and supportive devices for the foot unless they are required for the correction of a physical deformity; artificial human eyes and their replacement parts; artificial limbs for human beings and their replacement parts; artificial hearing devices for human beings and their replacement parts; mammary prostheses; any appliance and related supplies necessary as a result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste; sales of false teeth by a dentist and the materials used directly by a dentist in the restoration or preservation of teeth; sales of eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist, or optometrist; provided, that such items are for the personal use of the owner or purchaser; and

(B) Sales of wheelchairs, crutches, canes, quad canes, walkers, hospital beds, bedside commodes, patient lifts, urinals, respirators, oxygen tents, kits and inhalers; hemodialysis devices, transcutaneous nerve stimulators; and sales of any other device, apparatus, or equipment used to replace or substitute for any part of the human body, or used to assist the ill or disabled in saving or prolonging life, or used to alleviate pain and suffering; provided, that such device, apparatus, or equipment is sold to an individual for the personal use of that individual and pursuant to written prescriptions or orders of duly licensed physicians and surgeons and general and special practitioners of the healing art;

(16) Sales of material to be incorporated permanently in any war memorial authorized by Congress to be erected on public grounds of the United States;

(17) [Repealed];

(18) Food or drink described in § 47-2001(n)(1)(A), which is delivered and sold without profit by a nonprofit volunteer organization to persons who are confined to their homes due to age, illness, handicap, or infirmity; provided that such sales shall not be exempt unless such organization has received a certificate of exemption from the District as a semipublic institution;

(19) Sales of food or drink as described in subsection (n)(1)(A) of § 47-2001 made by a residence for senior citizens to the residents and employees of such facility and to the bona fide guests of such residents; provided, that the

facility does not also make such sales to the general public. As used in this paragraph, the term "residence for senior citizens" means any facility which rents or offers for rent rooms or dwelling units exclusively to persons who are 60 years of age or older or who are blind, disabled, or handicapped; provided, that at least 80% of the residents of such facility must be 60 years of age or older;

(20) Sales of motor-vehicle fuels upon the sale of which a tax is imposed by Chapter 23 of this title, as amended or as may be hereafter amended;

(21) Sales of vessels which are subject to the provisions of Article 29 of the Police Regulations;

(22) Sales to an organization exempt under 26 U.S.C. § 501(c)(4) when the organization's membership is limited to a state, territory, or possession of the United States or any political subdivision of a state, territory, or possession;

(23) Sales of "eligible foods," as defined in 7 CFR 271.2 pursuant to the federal Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.) ("Stamp Act"), and purchased with food stamps issued pursuant to the Stamp Act;

(24) Sales of residential public utility services and commodities by a gas, electric lighting, telephone company, or sales of residential heating oil by any person;

(25) Sales of tickets sold for the 1994 World Cup Soccer Games;

(26) Sales of residential cable television service and commodities by a cable television company; and

(27) Sales of the following:

(A) Printing services, if purchased by a publisher to print a newspaper that is to be distributed free of charge in the District;

(B) Tangible personal property purchased by a publisher that prints its own newspaper, if the property is incorporated by the publisher as a material or part of a newspaper that is distributed free of charge in the District; and

(C) Wrapping, packing and packaging supplies, if purchased by a publisher to further the distribution of a newspaper that is distributed free of charge in the District. (May 27, 1949, 63 Stat. 115, ch. 146, title I, § 128; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1305; Mar. 31, 1956, 70 Stat. 81, ch. 154, title II, § 204; July 3, 1957, 71 Stat. 276, Pub. L. 85-82, § 1; Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 302; Aug. 2, 1968, 82 Stat. 614, Pub. L. 90-450, title III, § 305(a); Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I, § 106; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(b); 1973 Ed., § 47-2605; Oct. 21, 1975, D.C. Law 1-23, title III, § 301(9), (10), 22 DCR 2101; June 15, 1976, D.C. Law 1-70, title IV, § 403, 23 DCR 540; Apr. 6, 1977, D.C. Law 1-101, § 2, 23 DCR 8731; Mar. 3, 1979, D.C. Law 2-145, § 2, 25 DCR 6983; Sept. 13, 1980, D.C. Law 3-92, § 201(c), 27 DCR 3390; Mar. 4, 1981, D.C. Law 3-128, § 12, 28 DCR 246; July 24, 1982, D.C. Law 4-131, §§ 205, 503, 29 DCR 2418; Aug. 14, 1982, D.C. Law 4-133, § 2, 29 DCR 2745; Mar. 14, 1984, D.C. Law 5-58, § 3, 30 DCR 6293; Feb. 28, 1987, D.C. Law 6-207, § 2, 34 DCR 677; Sept. 22, 1987, D.C. Law 7-24, § 2, 34 DCR 4515; Oct. 1, 1987, D.C. Law 7-25, § 4, 34 DCR 5068; May 23, 1989, D.C. Law 8-4, § 20, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 20, 36 DCR 4723; Aug. 17, 1991, D.C. Law 9-34,

§ 4, 38 DCR 4223; Mar. 11, 1992, D.C. Law 9-71, § 2, 39 DCR 19; June 11, 1992, D.C. Law 9-124, § 4, 39 DCR 3205; July 23, 1992, D.C. Law 9-134, § 110(c), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 107(c), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 111(i), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(i), 40 DCR 5489; Apr. 30, 1994, D.C. Law 10-115, § 203(b), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 104(c), 41 DCR 2096; July 14, 1995, D.C. Law 11-23, § 3, 42 DCR 2558; Sept. 26, 1995, D.C. Law 11-52, § 113, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2006, 47-2007, 47-2010, 47-2321, and 47-2322.

Effect of amendments. — D.C. Law 11-52 rewrote (5).

Temporary amendments of section. — Section 3 of D.C. Law 11-23 rewrote (5).

Section 4(b) of D.C. Law 11-23 provided that § 3 shall apply to taxes on sales of personal property that occur on or after October 1, 1994.

Section 5(b) of D.C. Law 11-23 provided that the act shall expire on the 225th day of its having taken effect.

Section 3 of D.C. Law 11-260 amended (24) to read as follows:

“(24) Sales of residential public utility services and commodities by a gas company, electric company, telephone company, or sales of residential heating oil by any person, or sales of residential natural or artificial gas by any person.”

Section 5(b) of D.C. Law 11-260 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 3 of the Toll Telecommunication Emergency Amendment Act of 1995 (D.C. Act 11-42, April 17, 1995, 42 DCR 1936).

Section 4(b) of D.C. Act 11-42 provided for the application of the act.

For temporary amendment of section, see § 113 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 117(b) of D.C. Act 11-124 provided for the application of the act.

For temporary amendment of section, see § 3 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508), and see § 3 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

For temporary policy statement of act, see § 4 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51).

Legislative history of Law 1-23. — See note to § 47-2001.

Legislative history of Law 1-70. — See note to § 47-2001.

Legislative history of Law 1-101. — Law 1-101, the “Home Delivery Food Tax Act,” was introduced in Council and assigned Bill No. 1-316, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 15, 1976 and October 12, 1976, respectively. Signed by the Mayor on November 8, 1976, it was assigned Act No. 1-169 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-145. — Law 2-145, the “Senior Citizens Residences Sales Tax on Meals Exemption Act,” was introduced in Council and assigned Bill No. 2-337, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-321 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-92. — See note to § 47-2001.

Legislative history of Law 3-128. — Law 3-128, the “Closing of a Portion of Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendment; and the District of Columbia Motor Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Acts of 1980,” was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — See note to § 47-2001.

Legislative history of Law 4-133. — Law 4-133, the “Medical Equipment Sales Tax Exemption Act of 1982,” was introduced in Council

and assigned Bill No. 4-154, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 25, 1982 and June 8, 1982, respectively. Signed by the Mayor on June 21, 1982, it was assigned Act No. 4-199 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-58. — Law 5-58, the “D.C. Boat Titling Act of 1983,” was introduced in Council and assigned Bill No. 5-80, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on October 18, 1983, and November 1, 1983 respectively. Signed by the Mayor on December 2, 1983 it was assigned Act No. 5-86 and transmitted to both House of Congress for its review.

Legislative history of Law 6-207. — Law 6-207, the “D.C. Income and Franchise, and Sales Taxes Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-95, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-267 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-24. — Law 7-24, the “District of Columbia Sales Tax Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-243, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 16, 1987 and June 30, 1987, respectively. Signed by the Mayor on July 6, 1987, it was assigned Act No. 7-45 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-25. — Law 7-25, the “Gross Receipt Tax Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-4. — Law 8-4, the “Toll Telecommunications Service Tax Temporary Act of 1989,” was introduced in Council and assigned Bill No. 8-177. The Bill was adopted on first and second readings on February 28, 1989 and March 14, 1989, respectively. Signed by the Mayor on March 29, 1989, it was assigned Act No. 8-14 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-26. — Law 8-26, the “Toll Telecommunications Service Tax Act of 1989,” was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The

Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-34. — Law 9-34, the “District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-221. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-61 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-71. — Law 9-71, the “District of Columbia World Cup Soccer Ticket Sales Promotional Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-123, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-122 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-124. — Law 9-124, the “District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-464. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-198 and transmitted to both Houses of Congress for its review. D.C. Law 9-124 became effective on June 11, 1992.

Legislative history of Law 9-134. — See note to § 47-2001.

Legislative history of Law 9-145. — See note to § 47-2001.

Legislative history of Law 10-11. — See note to § 47-2002.1.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Legislative history of Law 10-115. — See note to § 47-2001.

Legislative history of Law 10-128. — See note to § 47-2001.

Legislative history of Law 11-23. — Law 11-23, the “Toll Telecommunication Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-138, which was retained by Council. The Bill was adopted on first and second readings on April 4, 1995, and May 2, 1995, respectively. Signed by the Mayor on June 16, 1995, it was assigned Act No. 11-51 and transmitted to both Houses of Congress for its review. D.C. Law 11-23 became effective on July 14, 1995.

Legislative history of Law 11-52. — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Legislative history of Law 11-260. — See note to § 47-2001.

Effective date. — Section 3(b) of D.C. Law 4-133 provided that revised § 47-2005(15) shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982.

References in text. — The “Toll Telecommunication Service Tax Act of 1989,” referred to in three places in (5), is D.C. Law 8-26.

Title III of the District of Columbia Revenue Act of 1949, referred to in paragraph (13) of this section, 63 Stat. 128, ch. 146, approved May 27, 1949.

New implementing regulations. — The “District of Columbia Boat Titling Act of 1983” (D.C. Law 5-58, Mar. 14, 1984, 30 DCR 6293) provides that the tax imposed by § 4-b(2) of Article 29 of the Police Regulations of the District of Columbia is in lieu of collecting any tax which may have been due under § 47-2001 et seq. as result of a sale.

Delegation of Authority Pursuant to

D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987.” — See Mayor’s Order 94-120, May 16, 1994 (41 DCR 3240).

Legislative intent. — Although the legislative history does not specifically address paragraph (1), it does display a clear purpose to pattern the District of Columbia sales tax on state sales tax laws and to limit the District’s taxing power in the manner that state taxation authority is limited. *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981).

Paragraph (1) is coextensive with constitutionally based federal tax immunity under paragraph (12). *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981).

Purchases by federal contractor. — Unless a federal contractor has the authority to pledge the credit of the United States, he cannot rank as a “purchasing agent” for the United States and qualify for exemption. *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981).

Purchases by private contractor not exempt. — Paragraph (1) of this section does not exempt from taxation purchases made by a private contractor of materials and supplies for use in construction contracts with the United States and the District. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882 (D.C. Cir.), cert. denied, 346 U.S. 900, 74 S. Ct. 227, 98 L. Ed. 400 (1953).

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

§ 47-2006. Application of exemption.

The exemption provided for in § 47-2005(19) shall apply to sales made on or after January 1, 1978. Any tax collected by the District of Columbia from a vendor on such exempt sales and any reimbursements collected by a vendor from purchasers on such exempt sales shall be refunded in accordance with § 47-2020; provided, that no interest shall be allowed or paid on any amount refunded pursuant to this section. (1973 Ed., § 47-2605.1; Mar. 3, 1979, D.C. Law 2-145, § 3, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2008.

Legislative history of Law 2-145. — See note to § 47-2005.

§ 47-2007. Action for collection of taxes.

No administrative or civil action for the collection by the District of Columbia from a vendor of taxes (or penalties and interest thereon) due and payable on sales made prior to January 1, 1978, which would have been exempt sales under § 47-2005(19) if such sales had been made on or after January 1, 1978, shall be commenced after the effective date of this section. Any such administrative or civil action that was commenced on or after

January 1, 1978, shall be terminated, and any taxes, penalties, and interest collected from a vendor pursuant to any such administrative or civil action commenced on or after January 1, 1978, shall be refunded in accordance with § 47-2020, notwithstanding the limitation in such section on refunds of taxes finally determined as due under § 47-2019; provided, that no interest shall be allowed or paid on any amount refunded pursuant to this section. (1973 Ed., § 47-2605.2; Mar. 3, 1979, D.C. Law 2-145, § 4, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2008.

Legislative history of Law 2-145. — See note to § 47-2005.

§ 47-2008. Rules and regulations.

The Mayor is authorized to promulgate such rules and regulations as may be necessary to carry out the purposes of §§ 47-2006 and 47-2007. (1973 Ed., § 47-2605.3; Mar. 3, 1979, D.C. Law 2-145, § 5, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-145. — See note to § 47-2005.

Cited in National Medical Ass'n v. District of Columbia, App. D.C., 611 A.2d 53 (1992).

Delegation of Authority pursuant to Law 2-145. — See Mayor's Order 86-143, August 25, 1986.

§ 47-2009. Tax to be separately stated.

Upon each sale of tangible personal property or services, the gross receipts from which are taxable under this chapter, the reimbursement of tax to be collected by the vendor from the purchaser under the provisions of this chapter shall be stated and charged separately from the sales price and shown separately on any record thereof at the time the sale is made or evidence of sale issued or employed by the vendor. (May 27, 1949, 63 Stat. 117, ch. 146, title I, § 129; 1973 Ed., § 47-2606; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2203 and 47-2204.

Cited in J. Frogg, Ltd. v. Khambata, 117 WLR 293 (Super. Ct. 1989).

§ 47-2010. Presumption of taxability.

It shall be presumed that all receipts from the sale of tangible personal property and services mentioned in this chapter are subject to tax until the contrary is established, and the burden of proving that a receipt is not taxable hereunder shall be upon the vendor or the purchaser as the case may be. Except as provided in § 47-2005(3), unless the vendor shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser and the number of his registration certificate to the effect that the property or service was purchased for resale, the receipts from all sales shall be deemed taxable. The certificate herein required shall be in such form as the Mayor shall prescribe and, in case no certificate is furnished or obtained prior

to the time the sale is consummated, the tax shall apply to the gross receipts therefrom as if the sale were made at retail. (May 27, 1949, 63 Stat. 117, ch. 146, title I, § 130; 1973 Ed., § 47-2607; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2203 and 47-2204.

Legislative history of Law 4-131. — See note to § 47-2001.

Cited in *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2011. Tax a personal debt; period of limitation; liens.

(a) The tax imposed by this chapter and interest and penalties thereon shall become, from the time due and payable, a personal debt of the person liable to pay the same to the District. An action may be brought at any time within 3 years from the time the tax shall be due and payable in the name of the District to recover the amount of any taxes, penalties and interest due under the provisions of this chapter, but such actions shall be utterly barred after the expiration of the aforesaid 3 years. For purposes of this section, the term “person” also includes any officer of a corporation, and any employee of a corporation responsible for the collection or payment of the tax and any member of a partnership or association, responsible for the collection or payment of the tax.

(b) The District shall have a lien upon all the property of any vendor who fails to collect or pay to the Mayor amounts required to be collected under this chapter. The lien shall accrue on the date the amounts were collected or, if the vendor fails to collect, on the date the amounts were required to be collected. This lien shall have the same priority as other District taxes. (May 27, 1949, 63 Stat. 117, ch. 146, title I, § 131; 1973 Ed., § 47-2608; July 24, 1982, D.C. Law 4-131, § 206, 29 DCR 2418; Feb. 28, 1987, D.C. Law 6-209, § 405(a), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2207.

Legislative history of Law 4-131. — See note to § 47-2001.

Legislative history of Law 6-209. — Law 6-209, the “Tax Amnesty Act of 1986,” was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by

the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2012. Tax a preferred claim; priority over property taxes.

Whenever the business or property of any person subject to tax under the terms of this chapter, shall be placed in receivership or bankruptcy, or assignment is made for the benefit of creditors, or if said property is seized under distraint for property taxes, all taxes, penalties, and interest imposed by this chapter for which said person is in any way liable shall be a prior and

preferred claim. Neither the United States Marshal, nor a receiver, assignee, or any other officer shall sell the property of any person subject to tax under the terms of this chapter under process or order of any court without first determining from the Collector the amount of any such taxes due and payable by said person, and if there be any such taxes due, owing, or unpaid under this chapter, it shall be the duty of such officer to first pay to the Collector the amount of said taxes out of the proceeds of said sale before making any payment of any moneys to any judgment creditor or other claimants of whatsoever kind or nature. Any person charged with the administration or distribution of any such property as aforesaid who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid which are chargeable against the person otherwise liable for tax under the terms of this section. (May 27, 1949, 63 Stat. 117, ch. 146, title I, § 132; 1973 Ed., § 47-2609; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2207.

Office of Collector of Taxes abolished. — See note to § 47-401.

This section is applicable to enforcement of judgment in rem by judicial sale notwithstanding the failure of the 1st sentence of this section to mention such a proceeding. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

District claim has priority over federal claim. — A District tax claim has priority over a tax claim of the United States in respect to a payment out of the assets in the hands of assignees for the benefit of creditors. In *re Lobel Enters., Inc.*, 126 F. Supp. 792 (D.D.C. 1954), modified, *United States v. Saidman*, 231 F.2d 503 (D.C. Cir. 1956).

First priority given to District's claim for sales taxes. — The 2nd sentence of this section unambiguously gives the District's claim for sales taxes a first priority in terms absolute. *Malakoff v. Washington*, App. D.C., 434 A.2d 432 (1981).

The District of Columbia lien for unpaid sales taxes has priority over an earlier-perfected Small Business Administration lien. *Pearlstein v. United States Small Bus. Admin.*, 719 F.2d 1169 (D.C. Cir. 1983).

And has preferred claim when insolvency proceedings. — The District has a preferred claim for taxes owed by a business when it is placed in receivership, becomes bankrupt, or makes an assignment for the benefit of creditors, or when its property is seized under distraint for property taxes. *District of Columbia v. Hechinger Properties Co.*, App. D.C., 197 A.2d 157 (1964).

Scope of "bankruptcy." — "Bankruptcy," within the meaning of this section embraces only proceedings under local insolvency acts. *District of Columbia v. Greenbaum*, 223 F.2d 633 (D.C. Cir. 1955).

Cited in *United States v. Saidman*, 231 F.2d 503 (D.C. Cir. 1956); *District of Columbia Redevelopment Land Agency v. Eleven Parcels of Land*, 589 F.2d 628 (D.C. Cir. 1978).

§ 47-2013. Collection of tax; liens; jeopardy assessments; distraint.

The taxes imposed by this chapter and penalties and interest thereon may be collected by the Collector in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection; and liens for the taxes imposed by this chapter and penalties thereon may be acquired in the same manner that liens for personal property taxes are acquired. If the Mayor believes that the collection of any tax imposed by this chapter will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties, the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate

notice and demand shall be made by the Collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful. (May 27, 1949, 63 Stat. 118, ch. 146, title I, § 133; 1973 Ed., § 47-2610; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2207.

Legislative history of Law 4-131. — See note to § 47-2001.

Office of Collector of Taxes abolished. — See note to § 47-401.

Notice of priority of District tax claim to creditors is not required. District of Colum-

bia v. Hechinger Properties Co., App. D.C., 197 A.2d 157 (1964).

Procedure for acquisition of lien for unpaid sales taxes. — The District acquires no lien for unpaid sales taxes unless and until it files a certificate of delinquency or distrains the property of the taxpayer. Malakoff v. Washington, App. D.C., 434 A.2d 432 (1981).

§ 47-2014. Assumption or refund of tax by vendor unlawful; penalties.

It shall be unlawful for any vendor to advertise or hold out or state to the public or to any customer directly or indirectly that the reimbursement of tax or any part thereof to be collected by the vendor under this chapter will be assumed or absorbed by the vendor or that it will not be added to the selling price of the property sold or the taxable services rendered, or if added to said price that it, or any part thereof, will be refunded. Any person violating any provision of this section shall upon conviction be fined not more than \$500, or imprisoned for not more than 6 months, or both, for each offense. (May 27, 1949, 63 Stat. 118, ch. 146, title I, § 134; 1973 Ed., § 47-2611; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2209.

Cited in J. Frogg, Ltd. v. Khambata, 117 WLR 293 (Super. Ct. 1989).

§ 47-2015. Monthly returns.

(a) On or before the 20th day of each calendar month, every vendor who has made any sale at retail, taxable under the provisions of this chapter, during the preceding calendar month, shall file a return with the Mayor. Such returns shall show the total gross proceeds of the vendor's business for the month for which the return is filed; the gross receipts of the business of the vendor upon which the tax is computed; the amount of tax for which the vendor is liable and such other information as the Mayor deems necessary for the computation and collection of the tax.

(b) The Mayor may permit or require the returns to be made for other periods and upon such other dates as he may specify; provided, that the gross receipts during any tax year shall be included in returns covering such year and no other.

(c) The form of returns shall be prescribed by the Mayor and shall contain such information as he may deem necessary for the proper administration of this chapter. The Mayor may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice. (May 27, 1949, 63 Stat. 118, ch. 146, title I, § 135; 1973 Ed., § 47-2612; July 24,

1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-813, 47-2004, and 47-2210.

Legislative history of Law 4-131. — See note to § 47-2001.

Cited in *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2016. Payment of tax.

(a) At the time of filing his return as provided by this chapter, the taxpayer shall pay to the Collector the taxes imposed by this chapter.

(b) The taxes for the period for which a return is required to be filed by a vendor under this chapter shall be due by the vendor and payable to the Collector on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of gross receipts and taxes due thereon. (May 27, 1949, 63 Stat. 118, ch. 146, title I, § 136; 1973 Ed., § 47-2613; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2004 and 47-2210.

Office of Collector of Taxes abolished. — See note to § 47-401.

Cited in *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2017. Annual returns.

On or before 30 days after the end of the tax year of each vendor required to pay to the Collector the tax imposed by the provisions of this chapter, such vendor shall make an annual return for such tax year in such form as may be required by the Mayor. The Mayor for good cause shown may on the written application of a vendor extend the time for making any return required by this section. (May 27, 1949, 63 Stat. 119, ch. 146, title I, § 137; 1973 Ed., § 47-2614; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2004 and 47-2210.

Legislative history of Law 4-131. — See note to § 47-2001.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2018. Secrecy of returns; reciprocity.

(a)(1) Except to any official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer or employee, or any former officer or employee, of the District to divulge or make known in any manner the amount of gross proceeds or tax due or any particulars relating thereto or the computation thereof set forth or disclosed in any return required to be filed under this chapter, and neither the original nor a copy of any return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of such litigation, whether or not the request is contained in an order of the court; provided, however, that nothing

herein contained shall be construed to prevent the furnishing to a taxpayer a copy of his return upon the payment of a fee of \$3.50.

(2) The provisions of paragraph (1) of this subsection shall also apply to any state or local sales tax returns, copies thereof, and any other state or local sales tax information either submitted by the taxpayer or otherwise obtained. The provisions of paragraph (1) of this subsection shall not apply to any applications for exemption and their required related financial statements for persons which have been granted exemption under this chapter.

(3) Whenever it is necessary for the District to enter into contracts for the purpose of processing, storing, transmitting, or reproducing tax returns required by this chapter, such returns may be disclosed to the contractor to the extent needed in connection with the processing, storing, transmitting, or reproducing of such tax returns. The provisions of subsections (a) and (d) of this section shall apply to all such contractors, their officers and employees, and to all such former contractors, former officers, and former employees.

(b) Nothing contained in subsection (a) of this section shall be construed to prohibit the publication of notices authorized in this chapter or the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof, or the publication of delinquent lists showing the names of persons, vendors, or purchasers who have failed to pay the taxes imposed by this chapter within the time prescribed herein, together with any relevant information which in the opinion of the Mayor may assist in the collection of such delinquent taxes.

(c) Nothing contained in subsection (a) of this section shall be construed to prohibit the Mayor, in his discretion, from divulging or making known any information contained in any report, application, or return required under the provisions of this chapter other than such information as may be contained therein relating to the amount of gross proceeds or tax thereon or any particulars relating thereto or the computation thereof.

(d) Any violation of the provisions of subsection (a) of this section shall be punishable by a fine not exceeding \$1,000, or imprisonment for 1 year, or both, in the discretion of the court.

(e) Notwithstanding the provisions of this section, the Mayor may permit the proper officer of the United States or of any state or territory of the United States or his authorized representative to inspect the returns filed under this chapter, or may furnish to such officer or representative a copy of any such return, provided the United States, state, or territory grants substantially similar privileges to the Mayor or his representative or to the proper officer of the District charged with the administration of this chapter.

(f) All reports, applications, and returns received by the Mayor under the provisions of this chapter shall be preserved for 3 years and thereafter until the Mayor orders them to be destroyed. (May 27, 1949, 63 Stat. 119, ch. 146, title I, § 138; 1973 Ed., § 47-2615; Mar. 16, 1978, D.C. Law 2-57, § 4, 24 DCR 5426; July 24, 1982, D.C. Law 4-131, §§ 207, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 5-825, 47-2210, and 47-3205.

Legislative history of Law 2-57. — Law 2-57, the “Tax Certificate Issuance and Return Duplicating User Charges Act of 1977,” was introduced in Council and assigned Bill No. 2-201, which was referred to the Committee on Finance and Revenue. The Bill was adopted on

first and second readings on November 8, 1977 and November 22, 1977, respectively. Signed by the Mayor on December 15, 1977, it was assigned Act No. 2-122 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — See note to § 47-2001.

§ 47-2019. Determination of deficiencies.

If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Mayor from such information as may be obtainable. Notice of such determination shall be given to the taxpayer. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after the giving of notice of such determination, shall apply in writing to the Mayor for a hearing, or unless the Mayor of his own motion shall redetermine the same. After such hearing or redetermination the Mayor shall give notice of his final determination to the person against whom the tax is assessed. (May 27, 1949, 63 Stat. 119, ch. 146, title I, § 139; 1973 Ed., § 47-2616; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2007, 47-2021, 47-2213, and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

§ 47-2020. Refunds.

(a) Any tax that has been erroneously or illegally collected shall be refunded if application under oath is filed with the Mayor for such refund within 3 years from the payment thereof. For like cause and within the same period a refund may be made upon the certificates of the Mayor and the Collector. Whenever a refund is made upon the certificates of the Mayor and the Collector. Whenever a refund is made upon the certificates of the Mayor and the Collector, the Mayor and Collector shall state their reasons therefor in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. When an application is made by a vendor who has collected reimbursement of such tax, no actual refund of monies shall be made to such vendor, until he shall first establish to the satisfaction of the Mayor, under such regulations as the Mayor may prescribe, that the vendor has repaid to the purchaser the amount for which the application for refund is made. In lieu of any refund required to be made, a credit may be allowed therefor on payment due from the applicant.

(b) Credit may be taken against gross sales taxable under this chapter for amounts represented by accounts found to be worthless and actually charged off for income or franchise tax purposes; provided, however, that:

(1) The tax on such amounts has been previously paid to the District;

(2) Any such amounts so deducted from taxable sales prior to the date of write-off which may be thereafter collected shall be included in the first return filed after such collection and the amounts of tax paid thereon;

(3) Such amounts may not be deducted more than 3 years after the payment of the tax on such amounts; and

(4) In the event such amounts exceed the taxable sales for the reporting period, a refund may be applied for under subsection (a) of this section.

(c) Application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty, or interest complained of and the Mayor may receive evidence with respect thereto. After making his determination of whether any refund shall be made, the Mayor shall give notice thereof to the applicant.

(d)(1) After September 30, 1993, a vendor shall not be required to file a bond or prepayment with surety prescribed by § 26a(d)(1) of A Regulation Governing Vending Businesses in Public Space (Reg. 74-39; 24 DCMR 524.7).

(2) If a vendor files under oath, on a form prescribed by the Mayor, a request that the Mayor refund the street vendor's cash bond or prepayment with surety which was filed with the Mayor pursuant to § 26a(d)(1) of A Regulation Governing Vending Businesses in Public Space (Reg. 74-39; 24 DCMR 524.7), and the Mayor determines that the street vendor is in compliance with all District tax laws, the Mayor shall refund the street vendor's cash bond plus accrued interest, or release the street vendor's prepayment with surety. (May 27, 1949, 63 Stat. 120, ch. 146, title I, § 140; 1973 Ed., § 47-2617; July 24, 1982, D.C. Law 4-131, §§ 208, 223, 29 DCR 2418; May 21, 1988, D.C. Law 7-121, § 4, 35 DCR 2695; Aug. 6, 1993, D.C. Law 10-11, § 111(j), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 111(j), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2006, 47-2007, 47-2213, and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

Legislative history of Law 7-121. — Law 7-121, the "Vendors Regulation Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-303, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-167 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — See note to § 47-2002.1.

Legislative history of Law 10-25. — See note to § 47-2002.1.

Effective date. — Section 601(b) of D.C. Law 4-131 provided that the amendment of subsection (b) and the addition of subsection (c), for assessing penalty and interest, shall take effect on the first day of the first month which begins more than 30 days after July 24, 1982. Section 601(c) of D.C. Law 4-131 provided that the amendment of the first sentence of subsection (a) shall take effect with respect to sales and the use taxes paid after July 24, 1982.

Cited in *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981).

§ 47-2021. Appeals.

(a) Any person aggrieved by a final determination of tax or by a denial of a claim for refund (other than a refund of tax finally determined under § 47-2019) may, within 6 months from the date of final determination or from the date of the denial of a claim for refund appeal to the Superior Court of the

District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308.

(b) If it is determined by the Mayor or by the Superior Court that any part of any tax which was assessed as a deficiency, and any interest thereon paid by the taxpayer, was an overpayment, interest shall be allowed and paid on the overpayment of tax at the rate provided for in § 47-3310(c) per annum from the date the overpayment was paid until the date of refund. (May 27, 1949, 63 Stat. 120, ch. 146, title I, § 141; July 29, 1970, 84 Stat. 581, Pub. L. 91-358, title I, § 161(d)(3); 1973 Ed., § 47-2618; Sept. 13, 1980, D.C. Law 3-92, § 201(d), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, §§ 209, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2022, 47-2213, and 47-3205.

Legislative history of Law 3-92. — See note to § 47-2001.

Legislative history of Law 4-131. — See note to § 47-2001.

Cited in *United States v. District of Columbia*, 669 F.2d 738 (D.C. Cir. 1981); *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

§ 47-2022. Sales in bulk.

(a) Whenever there is made a sale, transfer, or assignment in bulk of any part or the whole of a stock of merchandise or of fixtures, or of merchandise and of fixtures, pertaining to the conducting of the business of the seller, transferor, or assignor, otherwise than in the ordinary course of trade and in the regular prosecution of said business, the purchaser, transferee, or assignee shall at least 15 days before taking possession of such merchandise, fixtures, or merchandise and fixtures, or paying therefor, notify the Mayor by registered mail of the proposed sale and of the price, terms, and conditions thereof, irrespective of whether or not the seller, transferor, or assignor has represented to or informed the purchaser, transferee, or assignee that he owes any tax pursuant to this chapter or whether he has complied with § 28:6-104, or whether or not he has knowledge that such taxes are owing, or whether any such taxes are in fact owing.

(b) Whenever the purchaser, transferee, or assignee shall fail to give the notice to the Mayor as required by § 47-2021, or whenever the Mayor shall inform the purchaser, transferee, or assignee that a possible claim for such tax or taxes exists, any sums of money, property, or choses in action, or other consideration, which the purchaser, transferee, or assignee is required to transfer over to the seller, transferor, or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor, or assignor to the District, and the purchaser, transferee, or assignee is forbidden to transfer to the seller, transferor, or assignor any such sums of money, property, or choses in action to the extent of the amount of the District's claim. For failure to comply with the provisions of this section, the purchaser, transferee, or assignee shall be personally liable for the payment to the District of any such taxes theretofore or thereafter determined to be due to the District from the seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner

as the liability for tax under this chapter. (May 27, 1949, 63 Stat. 121, ch. 146, title I, § 142; 1973 Ed., § 47-2619; July 24, 1982, D.C. Law 4-131, §§ 210, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

§ 47-2023. Rules and regulations.

The Mayor may issue rules and regulations to carry out the purposes of this chapter. (May 27, 1949, 63 Stat. 121, ch. 146, title I, § 143; 1973 Ed., § 47-2620; July 24, 1982, D.C. Law 4-131, § 211, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Legislative history of Law 4-131. — See note to § 47-2001.

Section references. — This section is referred to in § 47-2213.

§ 47-2024. Additional powers.

In addition to the powers granted to the Mayor in this chapter, he, and the Council of the District of Columbia with respect to paragraphs (3) and (4) of this section, are hereby authorized and empowered:

(1)(A) To extend for cause shown the time of filing any return for a period not exceeding 30 days; provided, however, that the provisions regarding interest imposed per month or fraction thereof contained in § 47-2027(a) shall apply to any tax paid under an extension of time granted;

(B) For cause shown, to remit penalties and interest in whole or in part except as otherwise provided in this chapter; and

(C) To compromise disputed claims in connection with the tax hereby imposed;

(2) To request information from the Internal Revenue Service of the Treasury Department of the United States relative to any person for the purpose of assessing taxes imposed by this chapter; and said Internal Revenue Service is authorized and required to supply such information as may be requested by the Mayor relative to any person for the purpose herein provided;

(3) To prescribe methods for determining the gross proceeds from sales made or services rendered and for the allocation of such sales into taxable and nontaxable sales;

(4) To require any vendor selling to persons within the District to keep detailed records of the nature and value of personal property sold for use within the District, and to furnish such information upon request to the Mayor;

(5) To assess, determine, revise, and readjust the taxes imposed under this chapter; and

(6) To revoke, for reasonable cause, any registration certificate issued under the provisions of this chapter. (May 27, 1949, 63 Stat. 121, ch. 146, title I, § 144; 1973 Ed., § 47-2621; Sept. 13, 1980, D.C. Law 3-92, § 201(e), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, §§ 212, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Legislative history of Law 3-92. — See note to § 2001.

Legislative history of Law 4-131. — See note to § 47-2001.

References in text. — The Bureau of Internal Revenue, originally referred to twice in paragraph (2) of this section, was replaced by the Internal Revenue Service by Treasury Department Order 150-29.

§ 47-2025. Examination of records and witnesses.

The Mayor, for the purpose of ascertaining the correctness of any return filed as required by this chapter, or for the purpose of making a return where none has been made, is authorized to examine any books, papers, records, memoranda or any person bearing upon the matters required to be included in the return and may summon any person to appear before him and produce books, records, papers, or memoranda, bearing upon the matters required to be included in the return and to give testimony or answer interrogatories under oath respecting the same, and the Mayor, or his duly authorized representative, shall have power to administer oaths to such person or persons. Such summons may be served by any member of the Metropolitan Police Department. If any person, having been personally summoned, shall neglect or refuse to obey the summons issued as herein provided, then in that event the Mayor, or the Deputy Mayor, may report that fact to the Superior Court of the District of Columbia, or 1 of the judges thereof, and said court or any judge thereof hereby is empowered to compel obedience to said summons to the same extent as witnesses may be compelled to obey the subpoenas of that court. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in such returns, who shall refuse to permit the examination by the Mayor or any person designated by him of any such books, papers, records, or memoranda, or who shall obstruct or hinder the Mayor or any person designated by him in the examination of any books, papers, records, or memoranda, shall upon conviction thereof be fined not more than \$500, or imprisoned for not more than 6 months, or both, for each offense. (May 27, 1949, 63 Stat. 122, ch. 146, title I, § 145; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(52); 1973 Ed., § 47-2622; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

§ 47-2026. Certificate of registration.

(a) No person shall engage or continue to engage in the business of making any retail sales subject to tax under the provisions of this chapter without having obtained a certificate of registration therefor. If 2 or more persons constitute a single vendor as defined in this chapter, such persons may operate a single retail establishment under 1 certificate of registration and in such case neither the death or retirement of 1 or more of such persons from business in such establishment nor the entrance of 1 or more persons thereinto shall affect

the certificate of registration for a period of 60 days or require the issuance of a new certificate until the expiration of such period.

(b) Each applicant for a certificate required by this section shall make out and deliver to the Mayor, upon a blank to be furnished by him for that purpose, a statement showing the name of the applicant, each retail establishment where the applicant's business is to be conducted, the kind or nature of such business and such other information as the Mayor may prescribe. Upon receipt of such application the Mayor shall issue the applicant, without charge, a certificate of registration for each retail establishment designated in the application, authorizing the applicant to engage in business at such retail establishment. The certificate of registration shall be nontransferable except as otherwise provided in this chapter, and shall be displayed in the applicant's place of business. The form of such certificate of registration shall be prescribed by the Mayor.

(c) In the case of a vendor who has no fixed place of business and sells from 1 or more vehicles, each such vehicle shall constitute a retail establishment for the purpose of this chapter. In the case of a vendor who has no fixed place of business and does not sell from a vehicle, the application for a certificate of registration shall set forth the address to which any notice or other communication authorized by this chapter may be sent to the applicant, and the place so designated shall constitute a retail establishment for the purposes of this chapter.

(d) Whoever engages in the business of selling tangible personal property at retail, or makes any sale which is subject to tax under the provisions of this chapter without having a certificate of registration therefor, as required by this section, shall, upon conviction thereof, be fined not more than \$50 for each and every separate day on which said retail sales are made without possession of such registration certificate. (May 27, 1949, 63 Stat. 122, ch. 146, title I, § 146; 1973 Ed., § 47-2623; July 24, 1982, D.C. Law 4-131, §§ 213, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2212 and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

Evidence sufficient to sustain conviction. — See *Scott v. District of Columbia*, App. D.C., 122 A.2d 579 (1956).

tion. — See *Scott v. District of Columbia*, App. D.C., 122 A.2d 579 (1956).

Cited in *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989); *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

§ 47-2027. Penalties and interest.

(a) For failure to file a return or failure to pay the tax to the District, penalties and interest shall be added to the tax in accordance with §§ 47-453 through 47-458.

(b) The certificate of the Mayor to the effect that a tax has not been paid, that a return has not been filed, or a registration certificate has not been obtained, or that information has not been supplied pursuant to the provisions of this chapter, shall be presumptive evidence thereof; provided, that the presumptions created by this subsection shall not be applicable in criminal prosecutions. (May 27, 1949, 63 Stat. 123, ch. 146, title I, § 147; July 10, 1952, 66 Stat. 543, ch. 649, § 2(c); Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I,

§ 107; 1973 Ed., § 47-2624; Sept. 13, 1980, D.C. Law 3-92, § 201(f), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 214, 29 DCR 2418; Feb. 28, 1987, D.C. Law 6-209, § 405(b), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2024, 47-2213, and 47-3205.

Legislative history of Law 3-92. — See note to § 47-2001.

Legislative history of Law 4-131. — See note to § 47-2001.

Legislative history of Law 6-209. — See note to § 47-2011.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

Claim against bankrupt barred. — A District claim against a bankrupt for 1 percent per month on his delinquent personal property taxes is a “penalty” rather than “interest” and is barred by the Bankruptcy Act. *District of Columbia v. Greenbaum*, 223 F.2d 633 (D.C. Cir. 1955).

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

§ 47-2028. Additional penalties for failure to comply with chapter.

(a) Any person required to file a return or report or perform any act under the provisions of this chapter who shall fail or neglect to file such return or report or perform such act within the time required shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned for not more than 6 months, or both, for each and every failure or neglect. The penalty provided herein shall be in addition to the other penalties provided in this chapter.

(b) Any person required to file a return or report or perform any act under the provisions of this chapter who willfully fails or refuses to file such return or report or perform such act within the time required shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than 1 year, or both. The penalty provided herein shall be in addition to the other penalties provided in this chapter.

(c) For purposes of this section, the term “person” also includes any officer of a corporation, and any employee of a corporation responsible for the performance of any act under the provisions of this chapter and any member of a partnership or association responsible for performance of any act under the provisions of this chapter. (May 27, 1949, 63 Stat. 123, ch. 146, title I, § 148; 1973 Ed., § 47-2625; Apr. 19, 1977, D.C. Law 1-124, title VI, § 601, 23 DCR 8749; July 24, 1982, D.C. Law 4-131, § 215, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Legislative history of Law 1-124. — Law 1-124, the “Revenue Act For Fiscal Year 1978,” was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — See note to § 47-2001.

Fact that others who violated this chapter were not proceeded against is no defense. *Perlich v. District of Columbia*, App. D.C., 90 A.2d 227 (1952).

Defendant is not entitled to a jury trial as a matter of right. *Perlich v. District of Columbia*, App. D.C., 90 A.2d 227 (1952).

Testimony of revenue agents concerning defendant’s admissions in course of inves-

tigation is proper. *Scott v. District of Columbia*, App. D.C., 122 A.2d 579 (1956).

Court can enforce payment of fine by ordering defendant to serve jail sentence. *Perlich v. District of Columbia*, App. D.C., 90 A.2d 227 (1952).

Cited in *Scott v. District of Columbia*, App. D.C., 99 A.2d 641 (1953), *aff'd*, 214 F.2d 860 (1954); *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

§ 47-2029. Assessment of and limitations on deficiencies.

The Mayor may determine, redetermine, assess or reassess any tax imposed under this chapter within 5 years after the filing of any return; provided, that in the case of a fraudulent return or a failure to file a return, whether in good faith or otherwise, the tax may be assessed at any time. (May 27, 1949, 63 Stat. 123, ch. 146, title I, § 149; 1973 Ed., § 47-2626; July 24, 1982, D.C. Law 4-131, § 216, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Legislative history of Law 4-131. — See note to § 47-2001.

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2030. Prosecutions.

All prosecutions under this chapter shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District in the name of the District of Columbia. (May 27, 1949, 63 Stat. 124, ch. 146, title I, § 150; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2627; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

Cited in *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

§ 47-2031. Notices.

Any notice authorized or required under the provisions of this chapter may be given by mailing the same to the person for whom it is intended in an envelope, postage prepaid, addressed to such person at the address given in the last return filed by him pursuant to the provisions of this chapter or, if no return has been filed, then to the last address of such person. If the address of any person is unknown, such notice may be published in 1 or more of the daily newspapers in the District of Columbia for 3 successive days. The cost of any such advertisement in newspapers shall be added to the tax. The proof of mailing of any notice required or authorized in this chapter shall be presumptive evidence of the receipt of such notice by the person to whom addressed. The proof of publishing any notice required in this chapter in 1 or more of the daily newspapers in the District shall be conclusive notice to the person for whom such notice is intended. (May 27, 1949, 63 Stat. 124, ch. 146, title I, § 151; 1973 Ed., § 47-2628; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

§ 47-2032. Extensions of time.

Where, before the expiration of the period prescribed herein for the assessment or redetermination of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. (May 27, 1949, 63 Stat. 124, ch. 146, title I, § 152; 1973 Ed., § 47-2629; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2213 and 47-3205.

CHAPTER 21. CLOSING-OUT SALES.

Sec.	Sec.
47-2101. Definitions.	47-2106. Penalty for conducting false "closing-out sales" and for violation of this chapter; prosecutions.
47-2102. License required; application; fee; bond; records; penalty.	47-2107. Chapter not applicable to public officials.
47-2103. Purchase of new stocks for use on "closing-out sales" prohibited; presumption.	47-2108. Jurisdiction of Superior Court to enjoin violations of this chapter.
47-2104. Addition of new stocks during "closing-out sales" prohibited.	47-2109. Regulations.
47-2105. Continuation of sale beyond termination date prohibited; extension of termination date; continuation of business at new location prohibited.	47-2110. Preservation of authority; delegation of functions.

§ 47-2101. Definitions.

For the purposes of this chapter:

(1) "Closing-out sale" means and includes any sale in connection with which there is any representation by the person conducting such sale that the sale is being conducted, or is required or compelled to be conducted, for reasons of economic or business distress, inability to continue business at the same location, or the age or health of the owner or owners of the business, and the term "closing-out sale" shall include but not be limited to, all sales advertised, represented, or held forth under the designation of "going out of business," "discontinuance of business," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," "removal," or any other designation of like meaning.

(2) "Person" means and includes individuals, partnerships, voluntary associations, and corporations. (Sept. 1, 1959, 73 Stat. 449, Pub. L. 86-219, § 1; 1973 Ed., § 47-3001; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2102. License required; application; fee; bond; records; penalty.

(a) No person shall advertise or offer for sale in the District of Columbia a stock of goods, wares, or merchandise under the description of closing-out sale, or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise, unless he shall have obtained a license to conduct such sale from the Mayor of the District of Columbia. The applicant for such a license shall make an application therefor, in writing and under oath at least 14 days prior to the opening date of sale, showing all the facts relating to the reasons and character of such sale, including the opening and terminating dates of the proposed sale, a complete inventory of the goods, wares, or merchandise actually on hand in the place whereat such sale is to be conducted, and all details necessary to locate exactly and identify fully the goods, wares, or merchandise to be sold.

(b) If the Mayor shall be satisfied from said application that the proposed sale is of the character which the applicant desires to advertise and conduct, the Mayor shall issue a license, upon the payment of a fee of \$277 therefor,

together with a bond, payable to the District of Columbia in the penal sum of \$1,000, conditioned upon compliance with this chapter, to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application. Any merchant who shall have been conducting a business in the same location where the sale is to be held for a period of not less than 1 year, prior to the date of holding such sale shall be exempted from the payment of the fee and the filing of the bond herein provided.

(c) The Mayor shall endorse upon such application the date of its filing, and shall preserve the same as a record of office, and shall make an abstract of the facts set forth in such application, and shall indicate whether the license was granted or refused.

(d) Any person making a false statement in the application provided for in this section shall, upon conviction, be deemed guilty of perjury. (Sept. 1, 1959, 73 Stat. 449, Pub. L. 86-219, § 2; 1973 Ed., § 47-3002; Sept. 14, 1976, D.C. Law 1-82, title I, § 107, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2103 and 47-2104.

Legislative history of Law 1-82. — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Com-

mittee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

§ 47-2103. Purchase of new stocks for use on "closing-out sales" prohibited; presumption.

No person in contemplation of a closing-out sale under a license as provided for in § 47-2102 shall order any goods, wares, or merchandise for the purpose of selling and disposing of the same at such sale, and any unusual purchase and additions to the stock of such goods, wares, or merchandise within 60 days prior to the filing of application for a license to conduct such sale shall be presumptive evidence that such purchases and additions to stock were made in contemplation of such sale. (Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 3; 1973 Ed., § 47-3003; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2104. Addition of new stocks during "closing-out sales" prohibited.

No person carrying on or conducting a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise, under a license as provided in § 47-2102 shall, during the continuance of such sale, add any goods, wares, or merchandise to the stock inventoried in his original application for such license, and no goods, wares, or merchandise shall be sold at or during such sale, excepting the goods, wares, or merchandise described and inventoried in such original application. (Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 4; 1973 Ed., § 47-3004; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2105. Continuation of sale beyond termination date prohibited; extension of termination date; continuation of business at new location prohibited.

No person shall conduct a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise beyond the termination date specified for such sale, except that an extension may be authorized upon proper showing of need; nor shall any person, upon conclusion of such sale, continue that business which had been represented as closing out or going out of business under the same name, or under a different name, at the same location, or elsewhere in the District of Columbia where the inventory for such sale was filed; nor shall any person, upon conclusion of such sale, continue business contrary to the designation of such sale. (Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 5; 1973 Ed., § 47-3005; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2109.

§ 47-2106. Penalty for conducting false “closing-out sales” and for violation of this chapter; prosecutions.

(a) Any person who shall advertise, hold, conduct, or carry on any sale of goods, wares, or merchandise under the description of closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise, contrary to the provision of this chapter, or who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$300 or imprisonment for 90 days or both.

(b) Prosecutions for violations of this chapter and regulations promulgated under the authority of this chapter shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 6; 1973 Ed., § 47-3006; Oct. 5, 1985, D.C. Law 6-42, § 436, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

§ 47-2107. Chapter not applicable to public officials.

The provisions of this chapter shall not apply to public or court officers, or to any other person or persons acting under the license, direction, or authority of any court, local or federal, selling goods, wares, or merchandise in the course of their official duties. (Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 7; 1973 Ed., § 47-3007; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2108. Jurisdiction of Superior Court to enjoin violations of this chapter.

Upon complaint of any person, the Superior Court of the District of Columbia shall have jurisdiction in equity to restrain and enjoin any act forbidden or declared illegal by any provisions of this chapter. (Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 8; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(53); 1973 Ed., § 47-3008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2109. Regulations.

The Council of the District of Columbia is authorized to promulgate regulations to carry out the purposes of this chapter including, without limitation, regulations limiting the period of time a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise may be conducted, subject to extension as authorized by § 47-2105; provided, that no such regulation shall be put in effect until after a public hearing has been held thereon. (Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 9; 1973 Ed., § 47-3009; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2110. Preservation of authority; delegation of functions.

Nothing in this chapter shall be construed so as to affect the authority vested in the Commissioners by Reorganization Plan No. 5 of 1952 (66 Stat. 824). The performance of any function vested by this chapter in the Commissioners of the District of Columbia or in any office or agency under the jurisdiction and control of the said Commissioners may be delegated by said Commissioners in accordance with § 3 of such Plan. (Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 11; 1973 Ed., § 47-3010; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to general powers and duties of Mayor as successor to Commissioner, see § 1-242.

CHAPTER 22. COMPENSATING-USE TAX.

Sec.

47-2201. Definitions.

47-2202. Imposition of tax.

47-2202.1. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.

47-2202.2. Same — Collection of tax and transfer to Washington Convention Center Authority.

47-2203. Collection of tax by vendor.

47-2204. Nonresident vendors.

47-2205. Payment of tax by purchaser.

Sec.

47-2206. Exemptions.

47-2207. Collection of tax.

47-2208. Surety bonds.

47-2209. Assumption or refund of tax by vendor unlawful.

47-2210. Returns and payment of tax.

47-2211. Monthly returns; content and form; payment of tax.

47-2212. Certificate of registration.

47-2213. Incorporation and application of §§ 47-2019 to 47-2025 and 47-2027 to 47-2032.

47-2214. Application of chapter.

§ 47-2201. Definitions.

(a)(1) “Retail sale”, “sale at retail”, and “sold at retail” mean all sales in any quantity or quantities of tangible personal property, whether made within or without the District, and services, to any person for the purpose of use, storage, or consumption, within the District, taxable under the terms of this chapter. These terms shall mean all sales of tangible personal property to any person for any purpose other than those in which the purpose of the purchaser is to resell the property so transferred in the form in which the same is, or is to be, received by him, or to use or incorporate the property so transferred as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining. For the purpose of the tax imposed by this chapter, these terms shall include, but shall not be limited to, the following:

(A) Any production, fabrication, or printing of tangible personal property on special order for a consideration;

(B) The sale of natural or artificial gas, oil, electricity, solid fuel or steam, when made to any purchaser for purposes other than resale or for use in manufacturing, assembling, processing or refining;

(C) The sale of material used in the construction, and of materials used in the repair or alteration, of real property, which materials, upon completion of such construction, alterations, or repairs, become real property, regardless of whether or not such real property is to be sold or resold;

(D) The sale or charges for possession or use of any article of tangible personal property granted under a lease or contract, regardless of the length of time of such lease or contract or whether such lease or contract is oral or written; in such event for the purposes of this chapter, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rental paid; provided, however, that the gross proceeds from the rental of films, records, or any type of sound transcribing to theaters and radio and television broadcasting stations shall not be considered a retail sale;

(E) The sale of any meals, food or drink, or other like tangible personal property for a consideration as described in § 47-2001(n)(1)(A);

(F) The sale of or charge for admission to public events except live performances of ballet, dance or choral performances, concerts (instrumental and vocal), plays (with and without music), operas and readings and exhibitions of paintings, sculpture, photography, graphic and craft arts, but including movies, circuses, burlesque shows, sporting events and performances or exhibitions of any other type or nature; provided, that any casual or isolated sale of or charge for admission made by a semi-public institution not regularly engaged in making such sales or charges shall not be considered a retail sale or sale at retail;

(G) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, whether or not such service is performed by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service;

(H) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services;

(I) The rental of textiles to commercial users, the essential part of which rental includes recurring service of laundering or cleaning thereof;

(J) The sale of or charges for the service of real property maintenance and landscaping;

(i) For the purposes of this subparagraph, the term "real property maintenance" means any activity that keeps the land or the premises of a building clean, orderly, and functional, including the performance of minor adjustments, maintenance, or repairs, which include: floor, wall, and ceiling cleaning; pest control; window cleaning; servicing inground and in building swimming pools; exterior building cleaning; parking lot, garage, and recreation area maintenance; exterior and interior trash removal; restroom cleaning and stocking; lighting maintenance; chimney and duct cleaning; or ground maintenance; but does not include; painting, wallpapering, or other services performed as part of construction or major repairs; or services performed under an employee-employer relationship; and

(ii) For the purposes of this subparagraph, the term "landscaping" means the activity of arranging or modifying areas of land and natural scenery for an improved or aesthetic effect; the addition, removal, or arrangement of natural forms, features, and plantings; the addition, removal, or modification of retaining walls, ponds, sprinkler systems, or other landscape construction services; and other services provided by landscape designers or landscape architects such as consultation, research, preparation of general or specific design or detail plans, studies, specifications or supervision, or any other professional services or functions associated with landscaping;

(K) The sale of or charges for data processing service and information service;

(i) For the purposes of this subparagraph, the term "data processing service" means the processing of information for the compilation and production of records of transactions; the maintenance, input, and retrieval of

information; the provision of direct access to computer equipment to process, examine, or acquire information stored in or accessible to the computer equipment; the specification of computer hardware configurations, the evaluation of technical processing characteristics, computer programming or software, provided in conjunction with and to support the sale, lease, operation, or application of computer equipment or systems; work processing, payroll and business accounting, computerized data and information storage and manipulation; the input of inventory control data for a company; the maintenance of records of employee work time; filing payroll tax returns; the preparation of W-2 forms; the computation and preparation of payroll checks; and any system or application programming or software. The term "data processing services" does not include a service provided by a member of an affiliated group of corporations to other corporate members of the group. Data processing services shall be exempt from use tax if the service is rendered by a member of the affiliated group of corporations, has not been purchased with a certificate of resale or exemption to the corporation providing the service, is rendered for the purpose of expense allocation, and is not for the profit of the corporation providing the service. For the purposes of this sub-subparagraph, the term "affiliated group" shall have the same meaning as defined in 26 U.S.C. § 1504(a). The term "data processing services" does not include a service provided by a member of an affiliated group of corporations to other corporate members of the group. Data processing services shall be exempt from the use tax if the service is rendered by a member of the affiliated group of corporations, has not been purchased with a certificate of resale or exemption by the corporation providing the service, is rendered for the purpose of expense allocation, and is not for the profit of the corporation providing the service. For the purposes of this sub-subparagraph, the term "affiliated group" shall have the same meaning as defined in section 1504(a) of the Internal Revenue Code of 1986 (26 U.S.C. § 1504(a)); and

(ii) For the purposes of this subparagraph, the term "information service" means the furnishing of general or specialized news or current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by wire, cable, radio waves, microwaves, satellite, fiber optics, or any other method in existence or which may be devised; electronic data retrieval or research, including newsletters, real estate listings, or financial, investment, circulation, credit, stock market, or bond rating reports; mailing lists; abstracts of title; news clipping services; wire services; scouting reports; surveys; bad check lists; and broadcast rating services; but does not include: information sold to a newspaper or a radio or television station licensed by the Federal Communication Commission, if the information is gathered or purchased for direct use in newspapers or radio or television broadcasts; charges to a person by a financial institution for account balance information; or information gathered or compiled on behalf of a particular client, if the information is of a proprietary nature to that client and may not be sold to others by the person who compiled the information, except for a subsequent sale of the information by the client for whom the information was gathered or compiled;

(L) The sale or charge for any newspaper or publication;

(M)(i) The sale of or charges for cellular mobile telecommunication services, specialized mobile radio services, paging services, dispatch services, stationary two-way radio services, telegraph services, teletypewriter services, and teleconferencing services. The sale or charges described in this sub-subparagraph shall not be considered sales of private communication services as defined in § 47-2001(n)(1)(G)(iv);

(ii) The sale of or charges for "900", "976", "915", and other "900" -type telecommunication services;

(iii) The sale of or charges for telephone answering services, including automated services and services provided by human operators; and

(iv) The sale of or charges for services enumerated in sub-subparagraphs (i) through (iii) of this subparagraph shall not include sales of or charges for services that are subject to tax under § 47-2501 or Chapter 39 of this title;

(N) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when the service is performed by means of self-service, coin-operated equipment, and the rental of textiles to commercial users when the essential part of the rental includes the recurring service of laundering or cleaning thereof;

(O) The sale of or charge for any delivery in the District for which a separate charge is made, except merchandise delivered for resale for which a District of Columbia certificate of resale has been issued or the delivery of any newspapers;

(P) The sale of or charge for the service of procuring, offering, or attempting to procure in the District job seekers for employers or employment for job seekers, including employment advice, counseling, testing, resume preparation and any other related service; or

(Q) The sale of or charge for the service of placing a job seeker with an employer in the District.

(2) The terms "retail sale," "sale at retail," and "sold at retail" shall not include the following:

(A) Sales of data processing, information, or transportation and communication services other than sales of data processing services, information services, or any service enumerated in paragraph (1)(M) of this subsection, or the sale of or charge for any delivery in the District for which a separate charge is made;

(B) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in subsection (a)(1) of this section;

(C) Sales of tangible personal property which property was purchased or acquired by a nonresident prior to coming into the District and establishing or maintaining a temporary or permanent residence in the District. As used in this subsection, the word "residence" means a place in which to reside and does not mean "domicile";

(D) Sales of tangible personal property which property was purchased or acquired by a nonresident person prior to coming into the District and establishing or maintaining a business in the District; or

(E) The use or storage within the District of tangible personal property owned and held by a common carrier or sleeping car company for use principally without the District in the course of interstate commerce, or commerce between the District and a state, in or upon, or as part of, any train, aircraft, or boat.

(b) "Purchase" and "purchased" mean and include:

(1) Any transfer, either conditionally or absolutely, of title or possession or both of the tangible personal property sold at retail;

(2) Any acquisition of a license or other authority to use, store, or consume, the tangible personal property sold at retail; and

(3) Any sale of services sold at retail.

(c) "Purchaser" means any person who shall have purchased tangible personal property or services sold at retail.

(d) "In the District" and "within the District" mean within the exterior limits of the District of Columbia and include all territory within such limits owned by the United States of America.

(e) "Store" and "storage" mean any keeping or the retention of possession in the District for any purpose of tangible personal property purchased at retail sale.

(f) "Use" means the exercise by any person within the District of any right or power over tangible personal property and services sold at retail, whether purchased within or without the District by a purchaser from a vendor.

(g) "Vendor" includes every person or retailer engaging in business in the District and making sales at retail as defined herein, whether for immediate or future delivery of the tangible personal property or performance of the services. When in the opinion of the Mayor it is necessary for the efficient administration of this chapter to regard any salesman, representative, peddler, or canvasser, as the agent of the dealer, distributor, supervisor, or employer, under whom he operates or from whom he obtains the tangible personal property sold or furnishes services, the Mayor may, in his discretion, treat and regard such agent as the vendor jointly responsible with his principal, employer, or supervisor, for the assessment and payment or collection of the tax imposed by this chapter.

(h) "Engaging in business in the District" includes the selling, delivering, or furnishing in the District, or any activity in the District in connection with the selling, delivering, or furnishing in the District, of tangible personal property or services sold at retail as defined herein. This term shall include, but shall not be limited to, the following acts or methods of transacting business:

(1) The maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, of any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business; and

(2) The having of any representative, agent, salesman, canvasser, or solicitor operating in the District for the purpose of making sales at retail as defined herein, or the taking of orders for such sales.

(i) "Retailer" includes every person engaged in the business of making sales at retail.

(j) The definitions of “business,” “food or drink,” “gross receipts,” “person,” “purchaser’s certificate,” “retail establishment,” “return,” “sale” and “selling,” “sales price,” “semipublic institution,” “tangible personal property,” “tax,” “tax year,” “taxpayer,” “Mayor,” and “District,” as defined in Chapter 20 of this title, are hereby incorporated in and made applicable to this chapter.

(k) The foregoing definitions shall be applicable whenever the words defined are used in this chapter unless otherwise required by the context. (May 27, 1949, 63 Stat. 124, ch. 146, title II, §§ 201—211; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1306; Mar. 31, 1956, 70 Stat. 81, ch. 154, § 205; Aug. 2, 1968, 82 Stat. 615, Pub. L. 90-450, title III, § 306; Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I, §§ 108, 109; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(c)(1); 1973 Ed., § 47-2701; Oct. 21, 1975, D.C. Law 1-23, title III, § 302(1), (3)-(5), 22 DCR 2101-2103; June 15, 1976, D.C. Law 1-70, title IV, §§ 404, 405, 23 DCR 540; July 24, 1982, D.C. Law 4-131, §§ 217, 218, 223, 29 DCR 2418; July 26, 1989, D.C. Law 8-17, § 5(a), 36 DCR 4160; May 4, 1990, D.C. Law 8-119, § 4, 37 DCR 1738; Aug. 6, 1993, D.C. Law 10-11, § 112(a)-(c), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 112(a)-(c), 40 DCR 5489; Feb. 5, 1994, D.C. Law 10-68, §§ 47, 50, 40 DCR 6311; Apr. 30, 1994, D.C. Law 10-115, § 204(a), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 105(a), 41 DCR 2096; Mar. 21, 1995, D.C. Law 10-242, § 14(b), 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-451 and 47-2202.1.

Effect of amendments. — D.C. Law 10-242 inserted “or the delivery of any newspapers” at the end of (a)(1)(O).

Emergency act amendments. — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

Legislative history of Law 1-23. — Law 1-23, the “Revenue Act of 1975,” was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-70. — Law 1-70, the “Revenue Act of 1976,” was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final

reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-119. — Law 8-119, the “Tax Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-371, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Approved without the signature of the Mayor on March 6, 1990, it was assigned Act No. 8-173 and trans-

mitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — Law 10-11, the “Omnibus Budget Support Temporary Act of 1993,” was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Legislative history of Law 10-68. — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-115. — Law 10-115, the “Financial Administration Revision and Clarification Act of 1994,” was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

Legislative history of Law 10-128. — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 10-242. — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1,

1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

Legislative history of Law 11-216. — Law 11-216, the “Economic Recovery Conformity Temporary Act of 1996,” was introduced in Council and assigned Bill No. 11-829. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-414 and transmitted to both Houses of Congress for its review. D.C. Law 11-216 became effective on April 9, 1997.

Temporary prohibition on the increase in certain taxes. — Section 2 of D.C. Law 11-216 prohibits, on a temporary basis, the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of the federal income tax applicable solely to residents of the District of Columbia under the Internal Revenue Code of 1986.

Section 5(b) of D.C. Law 11-216 provided that the act shall expire after 225 days of its having taken effect.

Property excluded when purchased for resale. — Property is not excluded simply because it is resold, but it is excluded when it is purchased specifically for the purpose of resale. *District of Columbia v. Seven-Up Wash., Inc.*, 214 F.2d 197 (D.C. Cir.), cert. denied, 347 U.S. 989, 74 S. Ct. 851, 98 L. Ed. 1123 (1954).

Cartons with bottled drinks are not used or incorporated into other property. *District of Columbia v. Seven-Up Wash., Inc.*, 214 F.2d 197 (D.C. Cir.), cert. denied, 347 U.S. 989, 74 S. Ct. 851, 98 L. Ed. 1123 (1954).

Professional, insurance, or personal service transactions. — The statutory exclusions in § 47-2001(n)(2)(B) and subsection (a)(2)(B) of this section apply to professional and creative services of writers and there is no justification for the imposition of tax on the services of petitioner's free-lance authors. *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

Court reporting services are exempt from tax. — Court reporting services are not public stenographic services and are exempt from sales and use taxes pursuant to § 47-2001(n)(2)(B) and subsection (a)(2)(B) of this section. *Acme Reporting Co. v. District of Columbia*, 113 WLR 1533 (Super. Ct. 1985), aff'd, *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987).

Cited in *Washington Times-Herald, Inc. v. District of Columbia*, 213 F.2d 23 (D.C. Cir. 1954); *Debevoise v. Back*, App. D.C., 359 A.2d

279 (1976); *District of Columbia v. W. Bell & Co.*, App. D.C., 420 A.2d 1208 (1980); *Acme Reporting Co. v. District of Columbia*, 112 WLR

2565 (Super. Ct. 1984); *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

§ 47-2202. Imposition of tax.

There is hereby imposed and there shall be paid by every vendor engaging in business in the District and by every purchaser a tax on the use, storage, or consumption of any tangible personal property and service sold or purchased at retail sale. The rate of tax imposed by this section shall be 5.75%, except for the period beginning June 1, 1994, and ending September 30, 1994, the rate shall be 7%, of the sales price of such tangible personal property and services, except that:

(1) The rate of tax shall be 12% of the gross receipt from the sale of or charges for the service of parking or storing of motor vehicles or trailers, except the service of parking or storing of motor vehicles or trailers on a parking lot owned or operated by the Washington Metropolitan Area Transit Authority and located adjacent to a Washington Metropolitan Area Transit Authority passenger stop or station;

(2) The rate of tax shall be 10.5% of the gross receipts from the sale of or charges for any room or rooms, lodgings, or accommodations, furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients;

(3) The rate of tax shall be 9% of the gross receipts from the sale of or charges for:

(A) Food or drink prepared for immediate consumption as defined in § 47-2001(g-1);

(B) Spirituous or malt liquors, beer and wine sold for consumption on the premises where sold; and

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 40-111;

(3A) The rate of tax shall be 8% of the gross receipts of the sales of or charges for spirituous or malt liquors, beers, and wine sold for consumption off the premises where sold; and

(4) [Repealed]. (May 27, 1949, 63 Stat. 126, ch. 146, title II, § 212; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1307; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 102; Aug. 2, 1968, 82 Stat. 615, Pub. L. 90-450, title III, § 307; Oct. 31, 1969, 83 Stat. 172, Pub. L. 91-106, title I, § 110; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(c)(2); Aug. 29, 1972, 86 Stat. 643, Pub. L. 92-410, title III, § 301(b); 1973 Ed., § 47-2702; Oct. 21, 1975, D.C. Law 1-23, title III, § 302(2), 22 DCR 2101; June 15, 1976, D.C. Law 1-70, title IV, § 409, 23 DCR 544; Sept. 13, 1980, D.C. Law 3-92, § 202, 27 DCR 3390; Sept. 26, 1984, D.C. Law 5-113, § 201(e), (f), 31 DCR 3974; July 26, 1989, D.C. Law 8-17, § 5(b), 36 DCR 4160; Aug. 6, 1993, D.C. Law 10-11, § 112(d), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 112(d), 40 DCR 5489; Apr. 30, 1994, D.C. Law 10-115, § 204(b), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 105(b), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 303(a), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Mayor's authority to issue regulations necessary to carry out D.C. Law 4-131, see § 25-145.

As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 1-2466, 47-451, 47-2202.1, 47-2202.2, 47-2733, and 47-2734.

Legislative history of Law 1-23. — See note to § 47-2201.

Legislative history of Law 1-70. — See note to § 47-2201.

Legislative history of Law 3-92. — Law 3-92, the "District of Columbia Revenue Act of 1980," was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — Law 5-113, the "District of Columbia Revenue Act of 1984," was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — See note to § 47-2201.

Legislative history of Law 10-11. — See note to § 47-2201.

Legislative history of Law 10-25. — See note to § 47-2201.

Legislative history of Law 10-115. — See note to § 47-2201.

Legislative history of Law 10-128. — See note to § 47-2201.

Legislative history of Law 10-188. — See note to § 47-2202.1.

Effective date of § 201 of Law 5-113. — Section 202 of D.C. Law 5-113 provided that § 201 shall take effect October 1, 1984.

Expiration of §§ 301, 302 and 303 of Law 10-188. — See note to § 47-2202.1.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority. — See note to § 47-2202.1.

Purchase of property taxable event. — It is the purchase or the use of property itself, and not the signing of the contracts ultimately necessitating the purchase, which is the taxable event. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882 (D.C. Cir.), cert. denied, 346 U.S. 900, 74 S. Ct. 227, 98 L. Ed. 400 (1953).

A purchaser must reimburse vendor who has failed to charge sales or use tax. *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

Cited in *District of Columbia v. W. Bell & Co.*, App. D.C., 420 A.2d 1208 (1980); *Acme Reporting Co. v. District of Columbia*, 112 WLR 2565 (Super. Ct. 1984).

§ 47-2202.1. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.

A tax, separate from, and in addition to, the taxes imposed pursuant to § 47-2202 is imposed on the use, storage, or consumption of certain tangible personal property and services sold or purchased at retail sale in the District. Vendors engaging in the business activities listed in paragraphs (1) and (2) of this section and purchasers of the vendors' tangible personal property and services shall pay the tax at the following rate:

(1) 2.5% of the gross receipts for the sale or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(2) 1% of the gross receipts from the sale or charges made for:

(A) Food or drink prepared for immediate consumption, or sold as described in § 47-2001(n)(1)(A);

(B) Spiritous or malt liquors, beers, and wine sold for consumption on the premises where sold; or

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 40-111(8) and (9). (May 27, 1949, 63 Stat. 124, ch. 146, title II, § 212a, as added Sept. 28, 1994, D.C. Law 10-188, § 303(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 9-802, 47-451, and 47-2202.2.

Legislative history of Law 10-188. — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and sequentially to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994 if the Board does not submit final financial requirements and a feasibility analysis to the mayor and the Council as provided by § 9-707(h).

For temporary amendment of D.C. Law 10-188, § 306(a), see § 2(b) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Audit of accounts and operation of Authority. — Section 305(a) of D.C. Law 10-188 provided that “on or before July 1 of each year,

the District of Columbia Auditor, pursuant to the Auditor’s duties under § 47-117(b), shall audit the accounts and operation of the Authority and made a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year.”

Section 305(b) of D.C. Law 10-188 provided that “If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-807(g).”

§ 47-2202.2. Same — Collection of tax and transfer to Washington Convention Center Authority.

(a) The Mayor shall collect the tax imposed pursuant to § 47-2202.1 on behalf of the Washington Convention Center Authority and shall transfer the revenue from the tax to the Washington Convention Center Authority Fund established pursuant to § 9-809.

(b) The Mayor may develop and apply a fixed formula to the taxes imposed pursuant to §§ 47-2202 and 47-2202.1 to determine the amount that shall be transferred to the Authority. (May 27, 1949, 63 Stat. 124, ch. 146, title II, § 212b, as added Sept. 28, 1994, D.C. Law 10-188, § 303(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 10-188. — See note to § 47-2202.1.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188. — See note to § 47-2202.1.

Audit of accounts and operation of Authority. — See note to § 47-2202.1.

§ 47-2203. Collection of tax by vendor.

Every vendor engaging in business in the District and making sales at retail shall, for the privilege of making such sales, pay to the Collector the tax imposed by this chapter. At the time of making such sales the vendor shall collect the tax from the purchaser and give to the purchaser a receipt therefor in such form as prescribed by the Mayor. For the purpose of uniformity of tax collection by the vendor engaging in business in the District and for other purposes the provisions of §§ 47-2003, 47-2004, 47-2009, and 47-2010 are hereby incorporated in and made applicable to this chapter. (May 27, 1949, 63 Stat. 126, ch. 146, title II, § 213; 1973 Ed., § 47-2703; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

Office of Collector of Taxes abolished. — See note to § 47-401.

A purchaser must reimburse vendor who has failed to charge sales or use tax. *J. Frog, Ltd. v. Fleming*, App. D.C., 598 A.2d 735 (1991).

§ 47-2204. Nonresident vendors.

Every vendor or retailer not engaging in business in the District who makes sales at retail as defined in this chapter, and who upon application to the Mayor has been expressly authorized to pay the tax imposed by this chapter, shall, at the time of making such sales, collect the reimbursement of the tax from the purchaser and give to the purchaser a receipt therefor in such form as prescribed by the Mayor. For the purpose of uniformity of tax collection by the vendor or retailer who has been expressly authorized to pay the tax under the provisions of this section and for other purposes, the provisions of §§ 47-2003, 47-2004, 47-2009, and 47-2010 are hereby incorporated in and made applicable to this chapter. A permit shall be issued to such vendor or retailer, without charge, to pay the tax and collect reimbursement thereof as provided herein. Such permit may be revoked at any time by the Mayor who shall thereupon give notice thereof to the vendor or retailer. (May 27, 1949, 63 Stat. 126, ch. 146, title II, § 214; 1973 Ed., § 47-2704; July 24, 1982, D.C. Law 4-131, §§ 219, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

§ 47-2205. Payment of tax by purchaser.

If a purchaser has not reimbursed for the tax such vendors or retailers as are required or authorized to pay the tax, as the case may be, such purchaser shall file a return as hereinafter provided and pay to the Mayor a tax at the rates provided in § 47-2002 on the sales prices of property and services purchased at retail sale. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 215; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1308; 1973 Ed., § 47-2705; July 24, 1982,

D.C. Law 4-131, § 219, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

§ 47-2206. Exemptions.

The tax imposed by this chapter shall not apply to the following:

- (1) Sales upon which taxes are properly collected under Chapter 20 of this title;
- (2) Sales exempt from the taxes imposed under Chapter 20 of this title;
- (3) Sales upon which the purchaser has paid a retail sales tax or made reimbursement therefor to a vendor or retailer under the laws of any state or territory of the United States. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 216; 1973 Ed., § 47-2706; July 24, 1982, D.C. Law 4-131, § 220, 29 DCR 2418; Oct. 1, 1987, D.C. Law 7-25, § 5, 34 DCR 5068; Apr. 30, 1988, D.C. Law 7-104, § 9, 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

Legislative history of Law 7-25. — Law 7-25, the "Gross Receipt Tax Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-104. — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Delegation of Authority Pursuant to D.C. Law 7-25, the "Gross Receipts Tax Amendment Act of 1987". — See Mayor's Order 94-120, May 16, 1994 (41 DCR 3240).

§ 47-2207. Collection of tax.

The provisions of §§ 47-2011, 47-2012, and 47-2013 are hereby incorporated in and made applicable to this chapter. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 217; 1973 Ed., § 47-2707; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

District's claim for unpaid taxes has priority over federal claim. — The District's claim for unpaid compensating use taxes is

entitled to priority over a tax claim of the United States in respect to payment out of the assets in the hands of the assignees for the benefit of the creditors. *United States v. Saidman*, 231 F.2d 503 (D.C. Cir. 1956).

§ 47-2208. Surety bonds.

Every vendor or retailer not engaging in business in the District who has been expressly authorized to pay the tax imposed by this chapter and collect reimbursement therefor, and every vendor engaging in business in the District, may, in the discretion of the Council of the District of Columbia, be required to

file with the Mayor a bond not exceeding the amount of \$10,000 with such sureties as the Council of the District of Columbia deems necessary, and for such duration not exceeding 5 years as the Council of the District of Columbia deems necessary, conditioned upon the payment of the tax due from any vendor or retailer for any period covered by any return required to be filed under this chapter. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 218; 1973 Ed., § 47-2708; July 24, 1982, D.C. Law 4-131, § 221, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

§ 47-2209. Assumption or refund of tax by vendor unlawful.

The provisions of § 47-2014 are hereby incorporated in and made applicable to this chapter. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 219; 1973 Ed., § 47-2709; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

§ 47-2210. Returns and payment of tax.

The provisions of §§ 47-2015, 47-2016, 47-2017, and 47-2018 are hereby incorporated in and made applicable to this chapter. Every vendor, and every vendor or retailer not engaging in business in the District who is expressly authorized to pay the tax, shall file returns and pay the tax in accordance with the provisions of such sections applicable to the filing of returns and the payment of the tax and as shall be prescribed by regulation. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 220; 1973 Ed., § 47-2710; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

§ 47-2211. Monthly returns; content and form; payment of tax.

(a) Every purchaser who is required to pay the tax under this chapter shall file a return with the Mayor within 20 days after the end of each calendar month. Such returns shall show the total sales prices of all tangible personal property and services purchased at retail sale upon which the tax imposed has not been paid by the purchaser to vendors or retailers, the amount of tax for which the purchaser is liable, and such other information as the Council of the District of Columbia deems necessary for the computation and collection of the tax.

(b) The Council of the District of Columbia may permit or require the returns of purchasers to be made for other periods and upon such other dates as the Mayor may specify.

(c) The return filed by a purchaser shall include the sales prices of all tangible personal property and services purchased at taxable retail sale during the calendar month or other period for which the return is filed and upon which the tax imposed has not been reimbursed by the purchaser to vendors or retailers.

(d) The form of return shall be prescribed by the Mayor and shall contain such information as he may deem necessary for the proper administration of this chapter. The Mayor may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(e) At the time of filing his return as provided in this section, the purchaser shall pay to the Mayor the amount of tax for which he is liable as shown by such return.

(f) The taxes for the period for which a return is required to be filed under this section shall be due by the taxpayer and payable to the Mayor on the dated limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of the total sales prices and taxes due thereon. (May 27, 1949, 63 Stat. 127, ch. 146, title II, § 221; 1973 Ed., § 47-2711; July 24, 1982, D.C. Law 4-131, § 222, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Legislative history of Law 4-131. — See note to § 47-2201.

Editor's notes. — Subsection (f) is set forth exactly as enacted. The word "dated" should probably be "date", given the sense of the text.

§ 47-2212. Certificate of registration.

The provisions of § 47-2026 are hereby incorporated in and made applicable to this chapter; provided, that vendors and persons who have been issued certificates of registration under Chapter 20 of this title shall not be required to have such certificates under this chapter. (May 27, 1949, 63 Stat. 128, ch. 146, title II, § 222; 1973 Ed., § 47-2712; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

§ 47-2213. Incorporation and application of §§ 47-2019 to 47-2025 and 47-2027 to 47-2032.

The provisions of §§ 47-2019 to 47-2025 and 47-2027 to 47-2032 are hereby incorporated in and made applicable to this chapter. (May 27, 1949, 63 Stat. 128, ch. 146, title II, § 223; 1973 Ed., § 47-2713; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-451.

Cited in District of Columbia v. Acme Reporting Co., App. D.C., 530 A.2d 708 (1987).

§ 47-2214. Application of chapter.

The provisions of this chapter regarding the assessment of interest charges for the late filing of returns, late payment of tax, and extensions of time for filing returns, shall apply only with respect to late returns filed, late payments made, extensions of time granted, and determinations of tax due made (by court action or administratively) after August 1, 1980. (Sept. 13, 1980, D.C. Law 3-92, § 203, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-92. — See note to § 47-2202.

CHAPTER 23. MOTOR FUEL TAX.

Sec.

47-2301. Rate; deposit into General Fund.

47-2302. Definitions.

47-2303. Importer's license; application contents; fee; bond; issuance; revocation.

47-2304. Monthly report of amount of fuel sold.

47-2305. Importers to render invoices except in cases of retail sales.

47-2306. Payment of tax.

47-2307. Records subject to inspection of Assessor and Collector.

47-2308. Penalty for accepting fuel from importer without an itemized sale statement.

47-2309. Fuel exported from District of Columbia exempted from taxation.

47-2310. Penalties.

47-2311. Tax on fuel sold by United States agency in the District of Columbia.

47-2312. Prosecutions.

Sec.

47-2313. Public hackers not affected.

47-2314. Personal property tax laws not affected.

47-2315. Mayor to issue rules.

47-2316. Procedure for determination, redetermination, assessment, or reassessment; interest penalty; liability for payment.

47-2317. Collection; liens.

47-2318. Refund for erroneous or illegal collection.

47-2319. Judicial review.

47-2320. Contraband; declaration; forfeiture; seizure; search; confiscation; sale.

47-2321. Rules and regulations by Mayor.

47-2322. Severability; savings clauses.

47-2323. Assessments for street paving — Generally.

47-2324. Same — Deposit into General Fund.

47-2325. Continuation of uncompleted projects at end of fiscal year.

§ 47-2301. Rate; deposit into General Fund.

(a) The District of Columbia shall levy and collect a tax of 20 cents per gallon, except for the period beginning June 1, 1994, and ending September 30, 1994, a tax of 22.5 cents per gallon, on motor vehicle fuels within the District of Columbia, sold or otherwise disposed of by an importer or by a user, or used for commercial purposes.

(b) The proceeds of the taxes imposed under §§ 47-2301 through 47-2315, and the money collected from fees charged for the registration and titling of motor vehicles, including fees charged for the issuance of permits to operate motor vehicles, shall be deposited in the General Fund of the District of Columbia established under § 47-131. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 1; Aug. 17, 1937, 50 Stat. 676, ch. 690, title III, § 1; June 4, 1952, 66 Stat. 100, ch. 366, § 1; May 18, 1954, 68 Stat. 117, ch. 218, title XI, § 1101; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VIII, § 801; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(a); 1973 Ed., § 47-1901; Oct. 21, 1975, D.C. Law 1-23, title II, § 201, 22 DCR 2096; Jan. 22, 1976, D.C. Law 1-42, § 3(a), 22 DCR 6311; Jan. 22, 1976, D.C. Law 1-42, § 7(c), 22 DCR 6317; Mar. 4, 1981, D.C. Law 3-128, § 11(a), 28 DCR 246; Sept. 5, 1985, D.C. Law 6-25, § 2, 32 DCR 3613; Feb. 19, 1986, D.C. Law 6-80, § 2, 32 DCR 7268; July 26, 1989, D.C. Law 8-17, § 6(a), 36 DCR 4160; July 23, 1992, D.C. Law 9-134, § 108, 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 108, 39 DCR 4895; June 14, 1994, D.C. Law 10-128, § 108, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to disposition of vehicle inspection fee, see § 40-202.

As to disposition of parking funds, see § 40-809.

As to establishment of General Fund, see § 47-131.

As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 1-2466, 5-516, 40-202, 40-810, 47-2302, 47-2303, 47-2312, and 47-2314.

Legislative history of Law 1-23. — Law 1-23, the "Revenue Act of 1975," was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-42. — Law 1-42, the "Revenue Funds Availability Act of 1975," was introduced in Council and assigned Bill No. 1-161, which was referred to the Committee on the Budget. The Bill was adopted on first and second readings on July 29, 1975 and October 7, 1975, respectively. Signed by the Mayor on October 24, 1975, it was assigned Act No. 1-59 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-128. — Law 3-128, the "Closing of a Portion of Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendment; and the District of Columbia Motor Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Acts of 1980," was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-25. — Law 6-25, the "Motor Vehicle Fuel Tax Act Amendment Temporary Act of 1985," was introduced in Council and assigned Bill No. 6-227. The Bill was adopted on first and second readings on May 14, 1985 and May 28, 1985, respectively. Signed by the Mayor on June 10, 1985 it was assigned Act No. 6-40 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-80. — Law 6-80, the "Flat Fuel Tax Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-112, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 22, 1985 and November 5, 1985, respectively. Signed by the Mayor on November 26, 1985, it was assigned Act No. 6-105 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-17. — Law 8-17, the "Revenue Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Compacts. — The Act of April 14, 1965, 79 Stat. 58, Pub. L. 89-11, provided:

**"COMPACT ON TAXATION OF
MOTOR FUELS CONSUMED
BY INTERSTATE BUSES**

"ARTICLE I.—PURPOSES

"The purposes of this agreement are to —

"(a) avoid multiple taxation of motor fuels consumed by interstate buses and to assure each State of its fair share of motor fuel taxes;

"(b) establish and facilitate the administration of a criterion of motor fuel taxation for interstate buses which is reasonably related to the use of highway and related facilities and services in each of the party States; and

"(c) encourage the availability of a maximum number of buses for intrastate service by re-

moving motor fuel taxation as a deterrent in the routing of interstate buses.

"ARTICLE II.—DEFINITIONS

"(a) State: State shall include the States of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories, and Federal District of Mexico.

"(b) Contracting State: Contracting State shall mean a State which is a party to this agreement.

"(c) Administrator: Administrator shall mean the official or agency of a State administering the motor fuel taxes involved.

"(d) Person: Person shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

"(e) Bus: Bus shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission or any agency successor thereto, or one or more State regulatory agencies concerned with the regulation of passenger transport.

"(f) Gallon: Gallon shall mean the liquid measure containing 231 cubic inches.

"ARTICLE III.—GOVERNING PRINCIPLE

"For purposes of this compact, the primary principle for the imposition of motor fuel taxes shall be consumption of such fuel within the State. Motor fuel consumed by buses shall be taxed on the existing basis, as it may be from time to time, and under the procedures for collection of such taxes by each party State, except that to the extent that this compact makes provision therefor, or for any matter connected therewith, such provision shall govern.

"ARTICLE IV.—HOW FUEL CONSUMED
TO BE ASCERTAINED

"The amount of fuel used in the operation of any bus within this State shall be conclusively presumed to be the number of miles operated by such bus within the State divided by the average mileage per gallon obtained by the bus during the tax period in all operations, whether within or without the party State. Any owner or operator of two or more buses shall calculate average mileage within the meaning of this article by computing single average figures covering all buses owned or operated by him.

"ARTICLE V.—IMPOSITION OF TAX

"Every owner or operator of buses shall pay to the party State taxes equivalent to the amount of tax per gallon multiplied by the

number of gallons used in its operations in the party State.

"ARTICLE VI.—REPORTS

"On or before the last business day of the month following the month being reported upon, each bus owner or operator subject to the payment of fuel taxes pursuant to this compact shall make such reports of its operations as the State administrator of motor fuel taxes may require and shall furnish the State administrator in each other party State wherein his buses operate a copy of such report.

"ARTICLE VII.—CREDIT FOR PAYMENT
OF FUEL TAXES

"Each bus owner or operator shall be entitled to a credit equivalent to the amount of tax per gallon on all motor fuel purchased by such operator within the party State for use in operations either within or without the party State, and upon which the motor fuel tax imposed by the laws of such party State has been paid.

"ARTICLE VIII.—ADDITIONAL TAX OR REFUND

"If the bus owner or operator's monthly report shows a debit balance after taking credit pursuant to article VII, a remittance in such net amount due shall be made with the report. If the report shows a credit balance, after taking credit as herein provided, a refund in such net amount as has been overpaid shall be made by the party State to such owner or operator.

"ARTICLE IX.—ENTRY INTO FORCE
AND WITHDRAWAL

"This compact shall enter into force when enacted into law by any two States. Thereafter it shall enter into force and become binding upon any State subsequently joining when such State has enacted the compact into law. Withdrawal from the compact shall be by act of the legislature of a party State, but shall not take effect until one year after the Governor of the withdrawing State has notified the Governor of each other party State, in writing, of the withdrawal.

"ARTICLE X.—CONSTRUCTION AND SEVERABILITY

"This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any govern-

ment, agency, person, or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating herein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

"Sec. 102. As used in the compact set forth in section 101 with reference to the District of Columbia —

"(1) the term "Legislature" shall mean the Congress of the United States; and

"(2) the term "Governor" shall mean the Board of Commissioners of the District of Columbia.

"Sec. 103. The Board of Commissioners of the District of Columbia shall enter into the compact authorized by section 101 of this title without further action on the part of the Congress, and issue such rules and regulations as may be necessary for the implementation of such compact. Notwithstanding any provision of this Act, nothing herein shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners (other than the entry into a compact authorized by this Act) or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan.

"Sec. 104. All provisions of law applicable to the District of Columbia shall, to the extent they are inconsistent with the compact authorized by this title, be inapplicable to the taxation of buses (as that term is defined in the compact) in the District of Columbia during such time as the District is a party to such compact.

"Sec. 105. The right to alter, amend, or repeal this title is expressly reserved.

"BUS TAXATION PRORATION AND RECIPROCITY AGREEMENT

"ARTICLE I.—PURPOSES AND PRINCIPLES

"Sec. 1. Purposes of agreement: It is the purpose of this agreement to set up a system whereby any contracting State may permit owners of fleets of buses operating in two or more States to prorate the registration of the buses in such fleets in each State in which the fleets operate on the basis of the proportion of miles operated within such State to total fleet miles, as defined herein.

"Sec. 2. Principle of proration of registration: It is hereby declared that in making this agreement the contracting States adhere to the principle that each State should have the freedom to develop the kind of highway user tax

structure that it determines to be most appropriate to itself, that the method of taxation of interstate buses should not be a determining factor in developing its user tax structure, and that annual taxes or other taxes of the fixed-fee type upon buses which are not imposed on a basis that reflects the amount of highway use should be apportioned among the States, within the limits of practicality, on the basis of vehicle miles traveled within each of the States.

"ARTICLE II.—DEFINITIONS

"(a) State: State shall include the States of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories, and Federal District of Mexico.

"(b) Contracting State: Contracting State shall mean a State which is a party to this agreement.

"(c) Administrator: Administrator shall mean the official or agency of a State administering the fee involved, or, in the case of proration of registration, the official or agency of a State administering the proration of registration in that State.

"(d) Person: Person shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

"(e) Base State: Base State shall mean the State from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled, or also in the case of a fleet bus the State to which it is allocated for registration under statutory requirements. In order that this section may not be used for the purpose of evasion of registration fees, the administrators of the contracting States may make the final decision as to the proper base State, in accordance with article III(h) hereof, to prevent or avoid such evasion.

"(f) Bus: shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more State regulatory agencies concerned with the regulation of passenger transport.

"(g) Fleet: As to each contracting State, fleet shall include only those buses which actually travel a portion of their total miles in such State. A fleet must include three or more buses.

"(h) Registration: Registration shall mean the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting States.

"(i) Proration of registration: Proration of registration shall mean registration of fleets of

buses in accordance with article IV of this agreement.

“(j) Reciprocity: Reciprocity shall mean that each contracting State, to the extent provided in this agreement, exempts a bus from registration and registration fees.

“ARTICLE III.—GENERAL PROVISIONS

“(a) Effect on other agreements, arrangements, and understandings: On and after its effective date, this agreement shall supersede any reciprocal or other agreement, arrangement, or understanding between any two or more of the contracting States covering, in whole or in part, any of the matters covered by this agreement; but this agreement shall not affect any reciprocal or other agreement, arrangement, or understanding between a contracting State and a State or States not party to this agreement.

“(b) Applicability to exempt vehicles: This agreement shall not require registration in a contracting State of any vehicles which are in whole or part exempt from registration under the laws or regulations of such State without respect to this agreement.

“(c) Inapplicability to caravanned vehicles: The benefits and privileges of this agreement shall not be extended to a vehicle operated on its own wheels, or in tow of a motor vehicle, transported for the purpose of selling or offering the same for sale to or by any agent, dealer, purchaser, or prospective purchaser.

“(d) Other fees and taxes: This agreement does not waive any fees or taxes charged or levied by any State in connection with the ownership or operation of vehicles other than registration fees as defined herein. All other fees and taxes shall be paid to each State in accordance with the laws thereof.

“(e) Statutory vehicle regulations: This agreement shall not authorize the operation of a vehicle in any contracting State contrary to the laws or regulations thereof, except those pertaining to registration and payment of fees; and with respect to such laws or regulations, only to the extent provided in this agreement.

“(f) Violations: Each contracting State reserves the right to withdraw, by order of the administrator thereof, all or any part of the benefits or privileges granted pursuant to this agreement from the owner of any vehicle or fleet of vehicles operated in violation of any provision of this agreement. The administrator shall immediately give notice of any such violation and withdrawal of any such benefits or privileges to the administrator of each other contracting State in which vehicles of such owner are operated.

“(g) Cooperation: The administrator of each of the contracting States shall cooperate with the administrators of the others and each con-

tracting State hereby agrees to furnish such aid and assistance to each other within its statutory authority as will aid in the proper enforcement of this agreement.

“(h) Interpretation: In any dispute between or among contracting States arising under this agreement, the final decision regarding interpretation of questions at issue relating to this agreement shall be reached by joint action of the contracting States, acting through the administrator thereof, and shall upon determination be placed in writing.

“(i) Effect of headings: Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or part hereof.

“(j) Entry into force: This agreement shall enter into force and become binding between and among the contracting States when enacted or otherwise entered into by any two States. Thereafter, it shall enter into force and become binding with respect to any State when enacted into law by such State. If the statutes of any State so authorize or provide, such State may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such State.

“ARTICLE IV.—PRORATION OF REGISTRATION

“(a) Applicability: Any owner of a fleet may register the buses of said fleet in any contracting State by paying to said State total registration fees in an amount equal to that obtained by applying the proportion of in-State fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each of all such vehicles in such contracting State.

“All fleet pro rata registration fees shall be based upon the mileage proportions of the fleet during the period of twelve months ending on August 31 next preceding the commencement of the registration year for which registration is sought: Except, that mileage proportions for a fleet not operated during such period in the State where application for registration is made will be determined by the Administrator upon the sworn application of the applicant showing the operations during such period in other States and the estimated operations during the registration year for which registration is sought, in the State in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation.

“If any buses operate in two or more States which permit the proration of registration on the basis of a fleet of buses consisting of a lesser number of vehicles than provided in article II(g), such fleet may be prorated as to registra-

tion in such States, in which event the buses in such fleet shall not be required to register in any other contracting States if each such vehicle is registered in some contracting State (except to the extent it is exempt from registration as provided in article III(b)).

"If the administrator of any State determines, based on his method of the operation thereof, that the inclusion of a bus or buses as a part of a fleet would adversely affect the proper fleet fee which should be paid to his State, having due regard for fairness and equity, he may refuse to permit any or all of such buses to be included in his State as a part of such fleet.

"(b) Total fleet miles: Total fleet miles, with respect to each contracting State, shall mean the total miles operated by the fleet (1) in such State, (2) in all other contracting States, (3) in other States having proportional registration provisions, (4) in States with which such contracting State has reciprocity, and (5) in such other States as the administrator determines should be included under the circumstances in order to protect or promote the interest of his State; except that in States having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles shall be determined on such basis.

"(c) Leased vehicles: If a bus is operated by a person other than the owner as a part of a fleet which is subject to the provisions of this article, then the operator of such fleet shall be deemed to be the owner of said bus for the purposes of this article.

"(d) Extent of privileges: Upon the registration of a fleet in a contracting State pursuant to this article, each bus in the fleet may be operated in both interstate and intrastate operations in such State (except as provided in article III(e)).

"(e) Application for proration: The application for proration of registration shall be made in each contracting State upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting States.

"(f) Issuance of identification: Upon registration of a fleet, the State which is the base State of a particular bus of the fleet shall issue the required license plates and registration card for such bus and each contracting State in which the fleet of which such bus is a part operates shall issue a special identification identifying such bus as a part of a fleet which has fully complied with the registration requirements of such State. The required license plates, registration cards, and identification shall be appropriately displayed in the manner required by or pursuant to the laws of each respective State.

"(g) Additions to fleet: If any bus is added to a prorated fleet after the filing of the original application, the owner shall file a supplemental application. The owner shall register such bus

in each contracting State in like manner as provided for buses listed in an original application and the registration fee payable shall be determined on the mileage proportion used to determine the registration fees payable for buses registered under the original application.

"(h) Withdrawals from fleet: If any bus is withdrawn from a prorated fleet during the period for which it is registered or identified, the owner shall notify the administrator of each State in which it is registered or identified of such withdrawal and shall return the plates and registration card or identification as may be required by or pursuant to the laws of the respective States.

"(i) Audits: The Administrator of each contracting State shall, within the statutory authority of such administrator, make any information obtained upon an audit of records of any applicant for proration of registration available to the administrators of the other contracting States.

"(j) Errors in registration: If it is determined by the administrator of a contracting State, as a result of such audits or otherwise, that an improper fee has been paid his State, or errors in registration found, the administrator may require the fleet owner to make the necessary corrections in the registration of his fleet and payment of fees.

"ARTICLE V.—RECIPROCITY

"(a) Grant of reciprocity: Each of the contracting States grants reciprocity as provided in this article.

"(b) Applicability: The provisions of this agreement with respect to reciprocity shall apply only to a bus properly registered in the base State of the bus, which State must be a contracting State.

"(c) Nonapplicability to fleet buses: The reciprocity granted pursuant to this article shall not apply to a bus which is entitled to be registered or identified as part of a prorated fleet.

"(d) Extent of reciprocity: The reciprocity granted pursuant to this article shall permit the interstate operation of a bus and intrastate operation which is incidental to a trip of such bus involving interstate operation.

"(e) Other agreements: Nothing in this agreement shall be construed to prohibit any of the contracting States from entering into separate agreements with each other for the granting of temporary permits for the intrastate operation of vehicles registered in the other State; nor to prevent any of the contracting States from entering into agreements to grant reciprocity for intrastate operation within any zone or zones agreed upon by the States.

"ARTICLE VI.—WITHDRAWAL OR REVOCATION

"Any contracting State may withdraw from this agreement upon thirty days' written notice

to each other contracting State, which notice shall be given only after the repeal of this agreement by the legislature of such State, if adoption was by legislative act, or after renunciation by the appropriate administrative official of such contracting State if the laws thereof empower him so to renounce.

“ARTICLE VII.—CONSTRUCTION AND SEVERABILITY

“This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating herein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

“Sec. 202. The Board of Commissioners of the District of Columbia shall have the power to make such exemptions from the coverage of the agreement as may be appropriate and to make such changes in methods for the reporting of any information required to be furnished to the District of Columbia pursuant to the agreement as, in its judgment, shall be suitable: *Provided*, That any such exemptions or changes shall not be contrary to the purposes set forth in article I of the agreement and shall be made in order to permit the continuance of uniformity of prac-

tice among the contracting States with respect to buses.

“Sec. 203. The Board of Commissioners of the District of Columbia shall enter into the agreement authorized by section 201 of this title without further action on the part of the Congress, and issue such rules and regulations as may be necessary for the implementation of such agreement. Notwithstanding any provision of this Act, nothing herein shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners (other than the entry into a compact authorized by this Act) or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan.

“Sec. 204. All provisions of law applicable to the District of Columbia shall, to the extent they are inconsistent with the agreement authorized by this title, be inapplicable to the taxation and registration of buses in the District of Columbia during such time as the District is a party to such agreement.

“Sec. 205. Unless otherwise provided in any statute withdrawing the District of Columbia from participation in the agreement, the Board of Commissioners of the District of Columbia shall be the officer to give notice of withdrawal therefrom.

“Sec. 206. The right to alter, amend, or repeal this title is expressly reserved.”

Cited in *Reichelderfer v. Hechinger*, 57 F.2d 943 (D.C. Cir. 1932).

§ 47-2302. Definitions.

As used in §§ 47-2301 to 47-2315:

(1) The term “motor vehicle” means all vehicles propelled by internal-combustion engines, electricity, or steam, except traction engines, road rollers, and vehicles propelled only upon rails and tracks.

(2) The term “motor vehicle fuels” means gasoline, diesel fuel, and other volatile and flammable liquid fuels produced or compounded for the purpose of operating or propelling internal combustion engines. It also includes benzol, benzene, naphtha, kerosene, heating oils, all liquified petroleum gases, and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles when advertised, offered for sale, sold for use, or used, alone, or blended or compounded with other products, for the purpose of operating or propelling internal combustion engines.

(3) The term “importer” means any person who brings into, or who produces, refines, manufactures, or compounds, in the District of Columbia motor vehicle fuel to be used by him or to be sold, kept for sale, bartered, delivered for value, or exchanged for goods.

(4) The term “distributor” means any person other than an importer or user, who purchases motor vehicle fuel for sale to another person for resale.

(5) The term “person” includes individual, partnership, corporation, and association.

(6) The term “Mayor” means the Mayor of the District of Columbia.

(7) The term “highways” means the right-of-way of streets, avenues, and roads, bridges, viaducts, underpasses, drainage structures, guard rails, signs, signals, curbing, and dikes, fills, and retaining walls necessary to support or protect the highway.

(8) The term “construction” means the supervising, inspecting, actual building, and all expenses incidental to the construction of a highway, including the acquisition of the necessary rights-of-way.

(9) The term “reconstruction” means a widening or a rebuilding of the highway or any portion thereof and of sufficient width and strength to care adequately for traffic needs, including all expenses incidental to the reconstruction of a highway and the acquisition of the necessary rights-of-way.

(10) The term “maintenance” means the constant making of needed repairs to preserve the highway.

(11) The term “improvement” means the betterment of a highway by construction, reconstruction, or resurfacing.

(12) The term “user” means anyone other than an importer or distributor who sells, uses, or otherwise disposes of, in the District of Columbia, motor-vehicle fuel upon which the tax imposed by this chapter has not been paid. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 2; Aug. 17, 1937, 50 Stat. 677, ch. 690, title III, § 2; May 16, 1938, 52 Stat. 358, ch. 223, § 3; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(b); 1973 Ed., § 47-1902; Mar. 4, 1981, D.C. Law 3-128, § 11(b), (c), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2303, 47-2312, 47-2314, and 47-2315.

Legislative history of Law 3-128. — See note to § 47-2301.

Rulemaking not compelled to interpret repeal of former refund provision. — The Motor Vehicle Fuel Tax Act contains terms that allow for no discretion and are sufficiently precise to be applied without implementing rules;

thus repeal of the refund provision in former § 47-1910 does not compel a rulemaking to interpret and implement the amended statute. *Hutchison Bros. Excavating Co. v. District of Columbia*, App. D.C., 511 A.2d 3 (1986).

United States is not “importer” or “person” within the meaning of this section. *District of Columbia v. AMOCO*, 39 F.2d 510 (D.C. Cir. 1930).

§ 47-2303. Importer’s license; application contents; fee; bond; issuance; revocation.

(a) No person shall bring into, or produce, refine, manufacture, or compound in the District of Columbia motor vehicle fuel to be used by him or to be sold, bartered, delivered for value, or exchanged for goods, and no person shall engage in the business of importer of motor vehicle fuels in the District of Columbia unless such person is the holder of an unrevoked license authorizing him so to do issued by the Mayor. The application for such license shall contain (1) the name of the applicant, (2) the name under which the applicant intends

to transact business and the name and place of business of the local representative, (3) the location of the applicant's place of business, (4) the date such business was established, and (5) any other information required under regulations promulgated by the Council of the District of Columbia. In case the applicant is a corporation, the application shall also contain the corporate name, place, and time of incorporation, and the names of the officers and directors, and, if a foreign corporation, the name of its resident general agent, and in case the applicant is a partnership the names and addresses of the several persons constituting the partnership. Such application shall be signed and sworn to by the owner of such business, if owned by an individual; by the partners, if owned by a partnership; or by the president and secretary of the corporation, or by its manager or resident general agent, if owned by a corporation. At the time of applying for such license the applicant shall pay to the Collector of Taxes as an annual license fee the sum of \$5 and shall file with the Mayor of the District of Columbia a bond in the form to be prescribed by the Mayor, in the approximate sum of 3 times the average monthly motor fuel tax due from said such importer during the next preceding 12 months, or estimated to be so due in the next succeeding 12 months, to be executed by a surety company duly licensed to do business under the laws of the District of Columbia, payable to the District of Columbia and conditioned upon the prompt payment of any and all taxes and penalties, levied and imposed in § 47-2301 and this section to the Collector of Taxes of the District of Columbia, and generally upon faithful compliance with the terms of §§ 47-2301 to 47-2315 by such importer; provided, that in no case shall such bond be less than \$5,000 nor more than \$100,000.

(b) Upon filing such application and bond and the payment of the fee, the Assessor shall issue to such applicant a license which shall authorize the applicant to engage in the business of importer of motor vehicle fuels for 1 year unless such license is sooner revoked.

(c) If any importer fails, refuses, or neglects to file the monthly report, or to pay the tax within the time required by this chapter, the Mayor shall promptly notify the importer and the bonding company by notice sent by registered mail or by certified mail to such importer requiring him to show cause why the license should not be revoked. If in the opinion of the Assessor the importer fails within 10 days after the mailing of such notice to show that failure to file the monthly report or to pay the tax as the case may be within the time required was due to accident or justifiable oversight, the Assessor shall forthwith revoke such license. Any importer whose license has been revoked shall not be issued another license for 12 months following the date of said revocation.

(d) Before any person whose license has been revoked may obtain another license to engage in the business of importer of motor vehicle fuels, such person shall pay all delinquent taxes and penalties due hereunder remaining unpaid by him. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 3; Aug. 17, 1937, 50 Stat. 677, ch. 690, title III, § 3; June 11, 1960, 74 Stat. 203, Pub. L. 86-507, § 1(55); 1973 Ed., § 47-1903; Mar. 4, 1981, D.C. Law 3-128, § 11(d), (e), 28 DCR 246; July 26, 1989, D.C. Law 8-17, § 6(b), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to receipt of certified mail return receipts as prima facie evidence of delivery, see § 14-506.

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2312, 47-2314, and 47-2315.

Legislative history of Law 3-128. — See note to § 47-2301.

Legislative history of Law 8-17. — See note to § 47-2301.

Office of Collector of Taxes abolished. — See note to § 47-401.

Office of Assessor abolished. — See note to § 47-413.

Corporation which fails to designate local representative not entitled to license.

— A foreign corporation is not entitled to an importer's license where it fails to designate a local representative and to maintain a local office or place of business within the District. *Cities Serv. Oil Co. v. Tobriner*, 306 F.2d 752 (D.C. Cir.), cert. denied, 371 U.S. 821, 83 S. Ct. 36, 9 L. Ed. 2d 60 (1962).

Designation of resident agent not required where no agent maintained. — The District motor fuel law does not require the designation of a resident general agent by a foreign corporation which maintains no such agent. *Cities Serv. Oil Co. v. McLaughlin*, 292 F.2d 759 (D.C. Cir. 1961).

Cited in *District of Columbia v. AMOCO*, 39 F.2d 510 (D.C. Cir. 1930).

§ 47-2304. Monthly report of amount of fuel sold.

Each importer engaged in the District of Columbia in the sale or other disposition or use of motor vehicle fuel shall render to the Assessor of the District of Columbia, on or before the 25th day of each calendar month, on forms prescribed, prepared, and furnished by the said Assessor, a sworn report of the total number of gallons of motor vehicle fuel within the District of Columbia sold or otherwise disposed of by such importer or used by him in a motor vehicle operated for hire or for commercial purposes, and of the number of gallons of such fuel so sold or otherwise disposed of for exportation from and resale without the District of Columbia, during the preceding calendar month. Such report shall be sworn to by one of the principal officers in case of a domestic corporation, by the resident general agent, or attorney in fact, or by a chief accountant or officer in case of a foreign corporation, or by the managing agent or owner in case of a partnership or association. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 4; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; 1973 Ed., § 47-1904; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Office of Assessor abolished. — See note to § 47-413.

§ 47-2305. Importers to render invoices except in cases of retail sales.

Invoices shall be rendered by importers and distributors to all purchasers from them of motor vehicle fuel within the District of Columbia except in case of retail sales. Said invoices shall contain a statement, printed thereon in a conspicuous place, that the liability to the District of Columbia for the tax herein imposed has been assumed by a licensed importer named in said statement and that the importer has paid the tax or will pay it on or before the 25th day of the calendar month next succeeding the purchase. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 5; Aug. 17, 1937, 50 Stat. 678, ch. 690, title III, § 4; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; 1973 Ed., § 47-1905; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2308, 47-2312, 47-2314, and 47-2315.

§ 47-2306. Payment of tax.

(a) The tax in respect to motor vehicle fuel so sold or otherwise disposed of or used in any calendar month shall be paid by the importer on or before the 25th day of the next succeeding calendar month to the Collector of Taxes of the District of Columbia, who shall issue a receipt to the importer therefor.

(b) In the event a user obtains, sells, uses, or otherwise disposes of motor vehicle fuel in the District of Columbia upon which the tax imposed by this chapter has not been paid, he shall be liable for the tax, penalties, and interest on such motor vehicle fuel as provided for in this chapter. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 6; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; 1973 Ed., § 47-1906; Mar. 4, 1981, D.C. Law 3-128, § 11(f), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Legislative history of Law 3-128. — See note to § 47-2301.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2307. Records subject to inspection of Assessor and Collector.

The records of all purchases, receipts, sales, other dispositions, and uses of motor vehicle fuel of every importer, distributor, user, or dealer shall, at all times during the business hours of the day, be subject to inspection by the Assessor and the Collector of Taxes of the District of Columbia, or by their duly authorized agents or by any other agent duly authorized by the Mayor to make such inspection. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 7; Aug. 17, 1937, 50 Stat. 678, ch. 690, title III, § 5; 1973 Ed., § 47-1907; Mar. 4, 1981, D.C. Law 3-128, § 11(g), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Legislative history of Law 3-128. — See note to § 47-2301.

Office of Assessor abolished. — See note to § 47-413.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2308. Penalty for accepting fuel from importer without an itemized sale statement.

It shall be unlawful for any person to accept or receive from any importer or distributor, except in cases of retail sales, any motor vehicle fuel unless the statement provided for in § 47-2305 appears upon the invoice for the fuel. If any such motor vehicle fuel is received and accepted by any person upon the invoice of which said statement does not appear, such person shall pay to the Collector of Taxes the tax herein imposed. (Apr. 23, 1924, 43 Stat. 106, ch. 131,

§ 8; Aug. 17, 1937, 50 Stat. 679, ch. 690, title III, § 6; 1973 Ed., § 47-1908; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2309. Fuel exported from District of Columbia exempted from taxation.

No tax on motor vehicle fuels exported or sold for exportation from the District of Columbia to any other jurisdiction or nation shall be imposed. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 9; 1973 Ed., § 47-1909; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

§ 47-2310. Penalties.

(a) Any person required to file a return or report or to perform any act under the provisions of this chapter, who shall fail or neglect to file such return or report or to perform such act within the time required shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 6 months, or both, for each and every failure or neglect. The penalty provided herein shall be in addition to the other penalties provided for in this chapter.

(b) Any person required to file a return or report or to perform any act under the provisions of this chapter, who willfully fails or refuses to file such return or report or to perform such act within the time required shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than 1 year, or both. The penalty provided herein shall be in addition to the other penalties provided for in this chapter.

(c) For the purposes of this section, the term “person” also includes any officer of a corporation and any employee of a corporation responsible for the performance of any act under this chapter, any member of a partnership or association and any employee of a partnership or association responsible for the performance of any act under this chapter. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 11; Aug. 17, 1937, 50 Stat. 679, ch. 690, title III, § 7; 1973 Ed., § 47-1911; Mar. 4, 1981, D.C. Law 3-128, § 11(h), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Legislative history of Law 3-128. — See note to § 47-2301.

§ 47-2311. Tax on fuel sold by United States agency in the District of Columbia.

When under authority of law gasoline or other motor vehicle fuel is sold by an agency of the United States within the District of Columbia, for use in

privately-owned vehicles, such agency of the United States shall, by agreement with the Mayor of the District of Columbia, arrange for the collection of the tax herein authorized to be imposed, and for accounting to the Collector of Taxes of the District of Columbia for the proceeds of such tax collections. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 14; June 4, 1952, 66 Stat. 100, ch. 366, § 2; May 18, 1954, 68 Stat. 117, ch. 218, title XI, § 1102; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 802; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(d); 1973 Ed., § 47-1912; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2312. Prosecutions.

All prosecutions for violations of the provisions of §§ 47-2301 to 47-2315 or regulations prescribed thereunder may be in the Superior Court of the District of Columbia, upon information filed by the Corporation Counsel of the District of Columbia or any of his assistants; and all suits for the collection of any tax or penalty under §§ 47-2301 to 47-2315 or such regulations shall be instituted by the Corporation Counsel or any of his assistants. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 15; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1913; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2314, and 47-2315.

§ 47-2313. Public hackers not affected.

Nothing in this chapter shall be construed in any wise to affect the provisions of §§ 47-2829 to 47-2831. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 16; 1973 Ed., § 47-1914; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, 47-2314, and 47-2315.

§ 47-2314. Personal property tax laws not affected.

Nothing in §§ 47-2301 to 47-2315 shall be construed as affecting the application to motor vehicles of the personal property tax in force on May 3, 1924, which personal property tax shall continue to be levied, assessed, and collected on motor vehicles. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 17; 1973 Ed., § 47-1915; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2315.

Motor fuel tax provisions should be considered as a whole, and, if possible, given an

interpretation that will harmonize and accord full force and effect to all of them. *District of Columbia v. Bailey*, 18 F.2d 367 (D.C. Cir. 1927).

§ 47-2315. Mayor to issue rules.

The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this chapter. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 18; 1973 Ed., § 47-1916; July 26, 1989, D.C. Law 8-17, § 6(c), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

Legislative history of Law 8-17. — See note to § 47-2301.

§ 47-2316. Procedure for determination, redetermination, assessment, or reassessment; interest penalty; liability for payment.

(a) The Mayor shall determine, redetermine, assess, or reassess any tax imposed under this chapter as follows:

(1) In the case of a fraudulent monthly report or failure to file a monthly report, the tax may be assessed at any time;

(2) If the tax as imposed by this chapter is determined to be due from any person other than a licensee under this chapter, such tax may be assessed at any time;

(3) In the case of an incorrect report, the tax shall be assessed or reassessed within 5 years after the filing of such report; or

(4) If a report required by this chapter is not filed, or if the report when filed is incorrect or insufficient, or if the tax as imposed by this chapter has been determined to be due from a licensee or any other person, the amount of tax due shall be determined by the Mayor from such information as may be obtainable. Notice of such determination shall be given to the licensee or to any person required to file a report and/or pay the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom the tax is assessed, within 30 days after the giving of such determination, shall apply to the Mayor for a hearing, or unless the Mayor of his own motion shall redetermine the same. After such hearing or redetermination the Mayor shall give notice of his final determination to the person against whom the tax is assessed.

(b) If motor vehicle fuel taxes are not paid or filed within the time prescribed, penalties and interest shall be added to the tax in accordance with §§ 47-453 through 47-458.

(c) The tax imposed by this chapter and interest and penalties thereon shall become, from the time due and payable, a personal debt of the person liable to pay the same to the District of Columbia. For the purposes of this subsection,

the term "person" also includes any officer of a corporation, and any employee of a corporation responsible for the payment of the tax; any member of a partnership or association, and any employee of a partnership or association responsible for the payment of the tax. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 19, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; Feb. 28, 1987, D.C. Law 6-209, § 401, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2319.

Legislative history of Law 3-128. — See note to § 47-2301.

Legislative history of Law 6-209. — See note to § 47-451.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-2317. Collection; liens.

The taxes imposed by this chapter and penalties and interest thereon may be collected by the Mayor in the manner provided by law for the collection of taxes due the District of Columbia on personal property in force at the time of such collection; and liens for the taxes imposed by this chapter and penalties and interest thereon may be acquired in the same manner that liens for personal property taxes are acquired. If the Mayor believes that the collection of any tax imposed by this chapter will be jeopardized by delay, the Mayor shall, whether or not the time otherwise prescribed by law for filing the monthly report and paying such tax has expired, immediately assess such tax, together with all interest and penalties, the assessment of which is provided by law. Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Mayor for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 20, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-128. — See note to § 47-2301.

§ 47-2318. Refund for erroneous or illegal collection.

Where any tax has been erroneously or illegally collected by the District, the tax shall be refunded if application under oath is filed with the Mayor for such refund within 3 years from the payment thereof. Such application must be made by the person upon whom such tax was imposed and who has actually paid the tax. Application for a refund as herein provided shall be deemed an application for a revision of tax, penalty, and/or interest complained of and the Mayor may receive evidence with respect thereto. After making his determination of whether any refund shall be made, the Mayor shall give notice thereof to the applicant. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 21, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-128. — See note to § 47-2301.

§ 47-2319. Judicial review.

Any person aggrieved by a final determination of tax or by a denial of a claim for refund, other than a refund of tax finally determined in § 47-2316, may within 6 months from the date of assessment of the deficiency, or from the date of the denial of a claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303 and 47-3304 as amended. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 22, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-128. — See District of Columbia, App. D.C., 511 A.2d 3 note to § 47-2301. (1986).

Cited in *Hutchison Bros. Excavating Co. v.*

§ 47-2320. Contraband; declaration; forfeiture; seizure; search; confiscation; sale.

(a) All motor vehicle fuels found in any place in the District of Columbia at such time and under such circumstances that the taxes levied and imposed by this chapter should have been collected and paid, and on which such taxes have not been paid as required by this chapter, shall be declared contraband goods and be forfeited to the District of Columbia. The Mayor may seize any such motor vehicle fuels wherever they are found.

(b) In any case where the Mayor has knowledge or reason to suspect that any vehicle is carrying motor vehicle fuel in violation of any provisions of this chapter, the Mayor is authorized to stop such vehicle and to inspect the same for contraband motor vehicle fuel. If such vehicle is carrying motor vehicle fuel in violation of any provision of this chapter, the motor vehicle fuel and the vehicle shall be confiscated.

(c) The Mayor shall not in any way be held responsible in any court for the seizure or the confiscation of any motor vehicle fuel or vehicles which are seized or confiscated under the provisions of this chapter. Any motor vehicle fuel or vehicles so seized shall be sold in the same manner as personal property seized for the payment of District of Columbia taxes, and the proceeds of such sales shall be deposited to the credit of the District of Columbia. Notwithstanding the provisions of this section, if the Mayor believes that any failure to comply with the provisions of this chapter is excusable, the Mayor may, in his discretion, return to the owner or owners thereof any motor vehicle fuel or vehicles seized under the provisions of this section. (Apr. 23, 1924, 43 Stat. 106, ch. 131, § 23, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to return of property by Property Clerk, see § 4-157.

Legislative history of Law 3-128. — See note to § 47-2301.

Cited in *District of Columbia v. 313 M St.*, App. D.C., 633 A.2d 820 (1993).

§ 47-2321. Rules and regulations by Mayor.

The Mayor may issue rules and regulations not inconsistent with the provisions of § 47-2005 or this chapter or both, in order to properly administer the provisions of § 47-2005 or this chapter, or both. (Mar. 4, 1981, D.C. Law 3-128, § 13, 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-128. — See note to § 47-2301.

§ 47-2322. Severability; savings clauses.

(a) If any provision of § 47-2005 or this chapter, or both, including any amendment made by § 47-2005 or this chapter, or both, or the application thereof to any person or circumstance, is held invalid, the remainder of the provisions of § 47-2005 or this chapter, or both, including the remaining amendments thereof, and the application of such provision to other persons or circumstances shall not be affected thereby.

(b) The repeal or amendment by § 47-2005 or this chapter, or both, or any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before March 4, 1981, or both, or any suit or proceeding had or commenced before March 4, 1981, or both, but all such rights and liabilities under this chapter and § 47-2005 shall continue, and may be enforced in the same manner and the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to March 4, 1981, or both, under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if § 47-2005 and this chapter, or both, had not been enacted. (Mar. 4, 1981, D.C. Law 3-128, § 14, 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-128. — See note to § 47-2301.

§ 47-2323. Assessments for street paving — Generally.

Assessments in accordance with existing law shall be made for paving and repaving roadways, where such roadways are paved or repaved, with funds derived from the collection of the tax on motor vehicle fuels. (Mar. 3, 1926, 44 Stat. 167, ch. 44, § 1; 1973 Ed., § 47-1917; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2324. Same — Deposit into General Fund.

All moneys derived from assessments for paving and repaving roadways under provisions of existing law shall be paid into the General Fund of the District of Columbia as established by § 47-131. (June 7, 1924, 43 Stat. 550,

ch. 302; 1973 Ed., § 47-1918; Jan. 22, 1976, D.C. Law 1-42, § 3(b), 22 DCR 6311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-42. — See note to § 47-2301.

Term “provided by existing law” refers to the statutory provision relating to pav-

ing, and not to the assumed principle of the common law relating to the relocation of tracks. *District of Columbia v. Georgetown & T. Ry.*, 41 F.2d 424 (D.C. Cir. 1930).

§ 47-2325. Continuation of uncompleted projects at end of fiscal year.

Any projects or portions of projects chargeable to the Gasoline Tax Road and Street Improvement Fund during the fiscal year 1925 and subsequent fiscal years and uncompleted at the close of those years shall be a continuing charge upon the Fund until completed and shall, except insofar as conditions beyond the control of the Mayor prevent, be given priority over projects subsequently made a charge upon such Fund. (Mar. 3, 1925, 43 Stat. 1226, ch. 477; 1973 Ed., § 47-1919; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cited in *Reichelderfer v. Hechinger*, 57 F.2d 943 (D.C. Cir. 1932).

CHAPTER 24. CIGARETTE TAX.

Sec.

- 47-2401. Definitions.
- 47-2402. Imposition; payment.
- 47-2403. Exemptions.
- 47-2404. Licenses.
- 47-2405. Transportation of cigarettes.
- 47-2406. Offenses relating to stamps.
- 47-2407. Redemption of stamps.
- 47-2408. Records; reports; returns.
- 47-2409. Seizure and forfeiture of property.
- 47-2410. Deficiency in tax.
- 47-2411. Redemption of cigarette or alcoholic beverage tax stamps.

Sec.

- 47-2411.1. Penalty; interest.
- 47-2412. Refunds.
- 47-2413. Appeals.
- 47-2414. Penalties.
- 47-2415. Regulations.
- 47-2416. Severability.
- 47-2417. Effective date.
- 47-2418. Cigarette tax stamps purchased or held prior to effective date; payment of tax; records.

§ 47-2401. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) The term “cigarette” means any roll of tobacco, or any substitute therefor, which is wrapped in paper or in any substance other than tobacco.

(2) The term “consumer” means any person who manufactures or possesses cigarettes for his own consumption or for transfer, without consideration, to another consumer, but not for transfer to other persons or for transfer with consideration.

(3) The term “District” means the District of Columbia.

(4) The term “Mayor” means the Mayor of the District of Columbia or his authorized representatives.

(5) The term “original package” means the individual package, box, parcel, or other container in which cigarettes are put up by the manufacturer. The term “original package” also includes any wrapper immediately enclosing such package, box, parcel, or other container that is prescribed by the Mayor as part of the original package.

(6) The term “person” means any individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, and any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; any combination of individuals or entities acting as a unit, or any officer or employee of a corporation or member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect to which the violation occurs.

(7) The term “possession” includes actual or constructive possession, having legal title or an equitable interest which entitles a person to such possession, and the exercise of any right or power incident to such ownership or possession.

(8) The term “sell” or “sale” means any transaction where title or possession, or both, of cigarettes is, or is to be, transferred in any manner or by any means whatsoever, whether with or without consideration. The word “sell” or “sale” includes offering for sale, keeping for sale, or displaying for sale.

(9) The term “stamp” means any fusion decal stamps, impressions made by metering devices, or other indicia authorized by the Mayor as evidence that the tax levied and imposed by this chapter has been paid.

(10) The term “vending machine” means any automated, self-service device that dispenses cigarettes upon insertion of money, tokens, or any other form of payment. (May 27, 1949, 63 Stat. 136, ch. 146, title VI, § 602; 1973 Ed., § 47-2801; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; May 2, 1991, D.C. Law 8-262, § 4(a), 37 DCR 8434; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — Law 4-71, the “Cigarette Tax Amendment Act of 1981,” was introduced in Council and assigned Bill No. 4-152, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and November 10, 1981, respectively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-118 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-262. — Law 8-262, the “Smoking Regulation Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-581, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 20, 1990, and December 4, 1990, respectively. Signed by the Mayor on December 14, 1990, it was assigned Act No. 8-278 and transmitted to both Houses of Congress for its review.

§ 47-2402. Imposition; payment.

(a) Except as otherwise provided in § 47-2403, a tax is levied and imposed on the sale or possession of all cigarettes in the District of Columbia at the rate of 3.25 cents for each cigarette.

(b) Cigarettes on which the taxes levied and imposed by this section have been paid shall not be subject to additional taxation under this section; provided, that the burden of proof that the taxes levied and imposed by this section have been paid shall be upon the person who sells or possesses cigarettes in the District, against whom a tax assessment has been made, who has submitted an application for a refund, or whose cigarettes have been seized. For the purposes of this section, the term “person” includes any officer or employee of a corporation responsible for payment of the tax, or any member of a partnership or association responsible for the payment of the tax.

(c) The tax levied and imposed by this section shall be paid by the affixture of stamps, purchased from the Mayor, evidencing the payment of the amount of tax imposed by this section. Such stamps shall be affixed to the original packages of cigarettes and shall be cancelled, in the manner prescribed by the Mayor.

(d) Except as otherwise provided in this subsection and subsection (f) of this section, each licensed wholesaler shall affix a stamp or stamps, evidencing the payment of the amount of tax imposed by this section, to each original package of cigarettes to be kept for sale, offered for sale, displayed for sale, or sold within the District. Such stamps shall be affixed to each original package of such cigarettes within 72 hours after the receipt of such cigarettes and prior to the sale of such cigarettes unless such cigarettes are exempt from taxation under the provisions of this chapter. Whenever any cigarettes are found in the place of business of a licensed wholesaler without the stamps affixed as herein provided, or not segregated or marked as having been received within the preceding 72 hours, or not segregated or marked as being held for sale outside of the limits of the District, or not segregated or marked as being held for sale

to the United States or the District government, or any instrumentalities thereof, or not segregated or marked for other exempt purposes under this chapter, a prima facie presumption shall arise that such cigarettes are subject to the tax levied and imposed by this section and are possessed in violation of the provisions of this chapter.

(e) Licensed retailers and vending machine operators shall not accept deliveries of unstamped or improperly stamped cigarettes. Such licensees shall examine all packages of cigarettes immediately upon their receipt and shall immediately return any and all unstamped or improperly stamped cigarettes to the licensed wholesaler. Unless substantial evidence to the contrary is shown, the possession of any unstamped or improperly stamped cigarettes by such licensees shall be prima facie evidence that such cigarettes are possessed in violation of the provisions of this chapter. The Mayor may, however, authorize licensed retailers and vending machine operators to acquire and have in their possession cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction; provided, that such cigarettes are intended for sale in such other state or jurisdiction. Licensed retailers and vending machine operators shall not purchase, acquire, or have in their possession District tax stamps. Notwithstanding the provisions of this subsection, licensed retailers or vending machine operators, other than licensed retailers or vending machine operators who are also licensed wholesalers, who either have in their possession unused cigarette tax stamps or unstamped cigarettes on the effective date of this chapter shall not be deemed in violation of this subsection; provided, that such licensed retailers and vending machine operators affix or redeem such unused cigarette tax stamps and pay the tax levied and imposed by this section on such unstamped cigarettes in the manner and within the time specified by the Mayor.

(f) On sales of cigarettes to other licensed wholesalers, a licensed wholesaler may deliver such cigarettes without affixing stamps thereon, and such other licensed wholesalers shall be liable for the tax imposed by this section on such cigarettes.

(g) All packages of cigarettes placed in cigarette vending machines shall be placed in such manner that the District cigarette tax stamps are visible whenever the packages are within that area of the vending machine which permits visibility of the packages.

(h) Except as authorized by this section or § 47-2403, no person shall willfully or knowingly sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any unstamped or improperly stamped cigarettes.

(i) No person shall sell, transfer, or offer to sell or transfer any cigarette tax stamps to any person other than the Mayor; nor shall any person buy, receive or offer to buy or receive any cigarette tax stamps from any person other than the Mayor.

(j) The Mayor may by regulation provide for the purchase of stamps at a discount not exceeding 10% of the face value of such stamps.

(k) The taxes imposed under this section shall be deemed to be a part of the selling price of cigarettes and shall be in addition to, and not in lieu of, any

taxes imposed by any other law. (May 27, 1949, 63 Stat. 137, ch. 146, title VI, § 603; May 18, 1954, 68 Stat. 115, ch. 218, title IX, § 901; Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title IV, § 401; Oct. 31, 1969, 83 Stat. 173, Pub. L. 91-106, title III, § 301; Oct. 21, 1972, 86 Stat. 1015, Pub. L. 92-518, title III, § 302(a); 1973 Ed., § 47-2802; Oct. 21, 1975, D.C. Law 1-23, title IV, § 401(a), 22 DCR 2103; June 15, 1976, D.C. Law 1-70, title V, § 501, 23 DCR 546; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Sept. 10, 1985, D.C. Law 6-33, § 2(a), 32 DCR 3774; Feb. 28, 1987, D.C. Law 6-198, § 2(a), 34 DCR 515; Aug. 17, 1991, D.C. Law 9-19, title I, § 114(a), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-31, § 2(a), 38 DCR 4218; July 23, 1992, D.C. Law 9-134, § 109(a), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 109(a), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 113(a), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 113(a), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504.

Section references. — This section is referred to in §§ 47-2403, 47-2405, and 47-2409.

Legislative history of Law 1-70. — Law 1-70, the "Revenue Act of 1976," was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 6-33. — Law 6-33, the "Cigarette Tax Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-188, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 28, 1985 and June 11, 1985, respectively. Signed by the Mayor on June 14, 1985, it was assigned Act No. 6-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-198. — See note to § 47-2418.

Legislative history of Law 9-19. — Law 9-19, the "Omnibus Budget Support Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-31. — Law 9-31, the "Cigarette Tax Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-164, which was referred to the Committee of the Whole. The Bill was adopted on

first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-58 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 10-11. — Law 10-11, the "Omnibus Budget Support Temporary Act of 1993," was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the "Omnibus Budget Support Act of 1993," was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Effective date of Law 6-33. — Section 3(b) of D.C. Law 6-33 provided that the provisions of

the act shall not operate before the 1st day of the 1st month which begins more than 30 days after September 10, 1985.

Mayor to report fiscal impact of Law 10-25. — Section 113(c) of D.C. Law 10-25 provided that the Mayor shall report to the Council within 6 months of implementation on the fiscal impact of this section.

§ 47-2403. Exemptions.

(a) Sale or possession of cigarettes in the District under the following circumstances shall be exempt from the tax levied and imposed by § 47-2402:

(1) Sales of cigarettes to or by the United States or the District government, or any instrumentalities thereof; possession of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes; and transfers, without consideration, of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes to other persons legally entitled to purchase or receive such cigarettes from such governmental entities;

(2) [Repealed];

(3) Possession of cigarettes by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in § 47-2402(f); sales of cigarettes by licensed wholesalers to other licensed wholesalers as provided for in § 47-2402(f); and possession by authorized licensed retailers and vending machine operators of cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction for sale in such other state or jurisdiction; provided, that such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein;

(4) Possession by a consumer of 200 or fewer cigarettes, which do not bear proper evidence of the payment of the tax levied and imposed by § 47-2402, transported into the District by a consumer or manufactured in the District by a consumer; transfers, without consideration, of such cigarettes from 1 consumer to another consumer; and

(5) Possession of cigarettes while being transported under such conditions that they are not deemed contraband under the provisions of § 47-2405.

(b) The burden of proof that any cigarettes are exempt from taxation under this chapter shall be upon the person who sells or possesses such cigarettes. (May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 604; 1973 Ed., § 47-2803; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Sept. 10, 1985, D.C. Law 6-33, § 2(b), 32 DCR 3774; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2402.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 6-33. — See note to § 47-2402.

Effective date of Law 6-33. — Section 3(b) of D.C. Law 6-33 provided that the provisions of the act shall not operate before the 1st day of the 1st month which begins more than 30 days after September 10, 1985.

§ 47-2404. Licenses.

(a) No person shall manufacture for sale, keep for sale, offer for sale, display for sale in vending machines, or sell cigarettes in the District without having first obtained a license or licenses for such purpose or purposes from the Mayor.

(b) The Mayor may issue the following types of licenses, upon the filing of an application as prescribed by the Mayor:

(1) *Wholesaler's licenses.* — A wholesaler's license shall authorize the licensee to manufacture, purchase, or otherwise acquire cigarettes and to keep for sale, offer for sale, and sell such cigarettes in original packages to consumers, to persons holding a license under this chapter as a wholesaler, retailer, or vending machine operator, and to persons for resale in other states or jurisdictions; provided, that with respect to sales made to persons for resale in other states or jurisdictions, such persons must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein. A wholesaler's license shall authorize the licensee to manufacture, keep for sale, offer for sale, and sell cigarettes only at the place or places designated therein. Except as provided by the Mayor by regulation, a separate license shall be required for each place where cigarettes are to be manufactured, kept for sale, offered for sale, or sold. The Mayor may provide, by regulation, for the issuance of a wholesaler's license for a place located outside of the District. The annual fee for a wholesaler's license shall be \$50 for each place designated therein.

(2) *Retailer's licenses.* — A retailer's license shall authorize the licensee to keep for sale, offer for sale, and sell cigarettes to consumers in original packages from the place or places designated therein. A retailer's license shall not authorize the licensee to sell cigarettes to other licensees for resale. Except as provided by the Mayor by regulation, a separate license shall be required for each retail establishment. The annual fee for a retailer's license shall be \$15 for each retail establishment.

(3) Vending machine operator's licenses restricted.

(A) No license shall be issued for the sale of cigarettes in an original package from or by means of a vending machine, except in the case of a tavern or nightclub licensed pursuant to § 25-111(a)(7), an establishment that restricts admittance to persons 18 years of age or older, or a restaurant licensed pursuant to § 25-111(a)(7).

(B) Any cigarette vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall be located in an area that is in the immediate vicinity, plain view, and control of a responsible employee, so that any tobacco purchase is readily observable by an employee. The cigarette vending machine shall not be located in a similar unmonitored area.

(C) The annual fee for a vending machine operator's license shall be \$15 for each vending machine.

(c) The Mayor shall keep a complete record of applications made for licenses under this section and of the actions taken thereon.

(d) The Mayor may, by regulation, adjust the license fees imposed by subsection (b) of this section and may establish fees for duplicate licenses.

(e) Licenses issued under this section shall remain in effect for such periods of time as may be prescribed by the Mayor by regulation, not exceeding 1 year from the effective date of such licenses, or until such licenses are suspended or revoked by the Mayor under subsection (f) of this section.

(f) The Mayor may, after a hearing, suspend or revoke any license issued under this section for any violation of this chapter or of the regulations promulgated under this chapter.

(g) The licenses required by this section shall be in addition to the licenses required by any other law or regulation.

(h) The Mayor may suspend any license issued under this section to any person convicted of a first or second violation of § 22-1120. The Mayor shall revoke the license for a third or subsequent violation. (May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 605; 1973 Ed., § 47-2804; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; May 2, 1991, D.C. Law 8-262, § 4(b), 37 DCR 8434; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 22-1120, 47-2409, and 47-2418.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 8-262. — See note to § 47-2401.

Cited in F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review, App. D.C., 579 A.2d 713 (1990).

§ 47-2405. Transportation of cigarettes.

(a) Any person, other than a consumer, who transports cigarettes not bearing District cigarette tax stamps over the public highways, roads, streets, waterways, or other public space of the District, shall have in his actual possession invoices or delivery tickets for such cigarettes, which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(b) If the cigarettes are consigned to or purchased by any person in the District, such purchaser or consignee must be a person authorized by this chapter to possess unstamped cigarettes in the District. If the invoice or delivery ticket specifies that the cigarettes are to be delivered to any person in any state or jurisdiction other than the District, such person must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein. Any cigarettes transported in violation of any of the provisions of this section shall be deemed contraband cigarettes and such cigarettes, the conveyance in which such cigarettes are being transported, and any equipment or devices used in connection with, or to facilitate, the transportation of such cigarettes shall be subject to seizure and forfeiture as provided for in § 47-2409.

(c) Any person who transports cigarettes in violation of this section shall, upon conviction thereof, be fined not more than \$25 for each 200 contraband cigarettes or fraction thereof so transported by him, or by imprisonment for not

more than 3 years, or both, and in addition, shall be liable for the tax imposed by § 47-2402 and the interest and penalties imposed by § 47-2411.1. (May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 606; 1973 Ed., § 47-2805; Sept. 14, 1976, D.C. Law 1-82, title I, § 105, 23 DCR 2461; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2403 and 47-2409.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 1-82. — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Com-

mittee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2406. Offenses relating to stamps.

(a) No person shall, with intent to defraud, alter, forge, make, or counterfeit any stamps authorized by the Mayor under this chapter; or procure or cause to be altered, forged, made, or counterfeited any such stamps; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such altered, forged, or counterfeited stamps; or make, use, sell, transfer, buy, receive, have in his possession, or procure or cause to be made or used any equipment or material in imitation of the equipment or material used in the manufacture of such stamps.

(b) No person shall, with intent to defraud, cut, tear, or remove from any package of cigarettes, any stamp authorized by the Mayor under this chapter; or procure or cause to be cut, torn, or removed any such stamp; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any cut, torn, or removed stamp.

(c) No person shall, with intent to defraud, alter the cancellation of or otherwise prepare, or cause to be altered or otherwise prepared, any stamp which has already been used for the payment of the tax imposed by this chapter; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such washed or restored stamp.

(d) No person shall, with intent to defraud, affix to any package of cigarettes, redeem, attempt to affix or redeem, or cause to be affixed or redeemed:

(1) Any stamp which has been cut, torn, or removed from any package of cigarettes;

(2) Any altered, forged, or counterfeited stamp; or

(3) Any washed or restored stamp.

(e) No person shall willfully sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any package of cigarettes to which is affixed a stamp described in subsection (d) of this section.

(f) Any person who violates any provision of this section shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than 5 years, or both. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 607; 1973 Ed., § 47-2806; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see § 1-1501 et seq.

Legislative history of Law 4-71. — See note to § 47-2401.

Section references. — This section is referred to in § 47-2409.

§ 47-2407. Redemption of stamps.

(a) The Mayor may, upon receipt of satisfactory evidence of the facts, redeem any stamps, issued under this chapter, which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use. Such redemption may be made either by allowing the owner of such stamps a credit on the purchase of new stamps equal to the amount paid for the spoiled, destroyed, or useless stamps or by refunding such amount; provided, that no refund shall be made in those cases where the owner can be made whole by allowing a credit on the purchase of new stamps. No refund or allowance shall be made under this section unless the owner of such stamps has filed a written claim, under oath, for such refund or allowance with the Mayor within 6 months after the stamps were spoiled, destroyed, or rendered useless or unfit for the purposes intended, or, in the case of the stamps for which the owner has no use, within 6 months after the purchase of such stamps.

(b) No refund or allowance shall be made until:

(1) The stamps so spoiled, destroyed, or rendered useless or unfit, or for which the owner has no use have been returned to the Mayor, or satisfactory proof has been made to the Mayor showing which such stamps cannot be returned; and

(2) If required by the Mayor, the person making the claim for such refund or allowance has satisfactorily traced the history of the stamps from their issuance to the filing of his claim.

(c) Notwithstanding the time limitations specified in subsection (a) of this section for the redemption of stamps, a claim for the redemption of unused stamps which are owned by licensed retailers or vending machine operators on the effective date of this chapter, other than stamps which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of this chapter, shall be filed within 6 months after the effective date of this chapter. Stamps owned by licensed retailers and vending machine operators which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of this chapter shall be subject to the time limitation for the redemption of such stamps specified in subsection (a) of this section. If the Mayor authorizes the continued affixation of stamps after the effective date of this chapter, which stamps were purchased by licensed retailers and vending machine operators prior to the effective date of this chapter, a claim for the redemption of such stamps shall be filed within the time prescribed by the Mayor. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 608; 1973 Ed., § 47-2807; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2408. Records; reports; returns.

(a) The Mayor may require licensed wholesalers, retailers, vending machine operators, and every other person liable for or exempt from the tax imposed by this chapter or otherwise subject to the provisions of this chapter or the regulations issued by the Mayor pursuant to this chapter, to keep, maintain, and preserve records, books, and other documents; to file reports, statements, and returns; and to comply with such regulations relating thereto as the Mayor may prescribe. The Mayor may require that any reports, statements, or returns be verified by oath. The records, books, and other documents which the Mayor requires to be kept, maintained, and preserved shall be made available for examination and copying by the Mayor at the place or places prescribed by him at the time specified in subsection (b) of this section.

(b) For purposes of ascertaining the correctness of any report, statement, or return; making a report, statement, or return where a complete and accurate report, statement, or return has not been filed; determining that all taxes due under this chapter have been properly paid; and determining compliance with the provisions of this chapter and the regulations issued hereunder, the Mayor may:

(1) Examine and copy any records, books, or other documents which may be relevant to such inquiry;

(2) Summon any person to appear before him at the time and place specified in the summons and produce such records, books, or other documents and give such testimony and answer such interrogatories, under oath, as may be relevant to such inquiry;

(3) Upon presenting appropriate credentials to the owner, operator, or agent in charge, enter any building or place during the usual business hours or any other time when such building or place is open:

(A) Where required records, books, or other documents are kept, maintained, or preserved for purposes of examining and copying such records, books, or other documents; and

(B) Where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator; and

(4) Stop any conveyance that the Mayor has knowledge or reasonable cause to believe is carrying more than 200 cigarettes and, upon presenting appropriate credentials to the operator thereof, examine the invoices or delivery tickets for such cigarettes and inspect the conveyance for contraband cigarettes.

(c) Any owner, operator, or agent in charge of any building or place where required records, books, or other documents are kept, maintained, or preserved or where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator who refuses to permit the Mayor, acting under the authority of subsection (b)(3) of this section, to enter and examine such records, books, or other documents or to inspect such cigarettes, or who obstructs, impedes, or interferes with the Mayor while he is engaged in the performance of his official duties under subsection (b)(3) of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

(d) Any person who, having been summoned, neglects or refuses to obey the summons issued as herein provided, shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both. If any person, having been summoned, neglects or refuses to obey the summons issued as herein provided, the Mayor may report that fact to the Superior Court of the District of Columbia, or 1 of the judges thereof, and that Court, or any judge thereof, is empowered to compel obedience of such summons to the same extent and under the same penalties as witnesses may be compelled to obey the subpoenas of that Court. Any failure to obey the order of the Court may be punished by the Court as a contempt thereof.

(e) No person shall willfully file an application for a license, permit, authorization, or refund; request for revision or abatement; claim for refund or allowance; or report, statement, or return; or keep or maintain any records, books, or other documents which are known to him to be false or fraudulent as to any material matter. No person shall willfully aid or assist in, or procure, counsel, or advise, the preparation, filing, or keeping of any applications, requests, claims, reports, statements, returns, records, books, or other documents which are false or fraudulent as to any material matter.

(f) Any person required to file any report, statement, or return or to keep, maintain, and preserve any records, books, or other documents, who fails to file a complete and accurate report, statement, or return on or before the date that such report, statement, or return is due (determined with regard to any extension of time for filing granted by the Mayor) or who fails to keep, maintain, and preserve complete and accurate records, books, or other documents, unless it is shown by such person that such failure is due to reasonable cause and not to neglect, shall pay a penalty of \$10 for each day during which such failure continues. The provisions of §§ 47-412 and 47-413 shall be applicable to the tax imposed by this chapter.

(g) If any person required to keep, maintain, and preserve any records, books, or other documents relating to exempt sales or possessions of cigarettes fails to keep, maintain, and preserve complete and accurate records, books, or other documents relating thereto, such sales and possessions shall, unless it is shown by such person that failure is due to reasonable cause and not to neglect, be deemed taxable sales and possessions.

(h) The Mayor may, upon written application made before the date prescribed for filing any report, statement, or return, grant a reasonable extension of time for filing the report, statement or return required by this chapter, whenever good cause exists for such extension. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 609; 1973 Ed., § 47-2808; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to authority of Council to change tax rates, see § 47-504. **Legislative history of Law 4-71.** — See note to § 47-2401.

§ 47-2409. Seizure and forfeiture of property.

(a) The following shall be subject to seizure by the Mayor or any law enforcement officer of the District and to forfeiture to the District:

(1) All cigarettes found in any place in the District at such times and under such circumstances that the taxes levied and imposed by this chapter should have been paid and on which such taxes have not been paid as required by this chapter or which do not bear proper evidence that such taxes have been paid;

(2) All cigarettes, conveyances, and equipment or devices subject to seizure and forfeiture under § 47-2405;

(3) All cigarettes manufactured for sale, kept for sale, offered for sale, displayed for sale, or sold in violation of § 47-2404 or the terms and conditions of a license issued under such section and all money collected in connection with the sale of such cigarettes;

(4) All unstamped or improperly stamped cigarettes possessed or sold by licensed retailers or vending machine operators in violation of § 47-2402(e);

(5) All cigarette tax stamps possessed by licensed retailers and vending machine operators in violation of § 47-2402(e) or sold or transferred, or offered for sale or transfer, in violation of § 47-2402(i);

(6) All vending machines which are operated in violation of § 47-2404 or the terms and conditions of a license under such section or which contain cigarettes described in paragraph (1) of this subsection, including all cigarettes, whether described in paragraph (1) of this subsection or not, and money contained therein;

(7) All altered, forged, counterfeited, cut, torn, removed, prepared, washed, or restored stamps as described in § 47-2406; all cigarettes to which such stamps are affixed and all materials and equipment used, or intended to be used, to manufacture or produce such stamps;

(8) All metering devices possessed with authorization from the Mayor and used or possessed in violation of the terms and conditions imposed by the Mayor;

(9) All raw materials or equipment of any kind which are used, or intended for use, in manufacturing or packaging cigarettes in violation of this chapter;

(10) All property which is used, or intended for use, as a container for property described in paragraph (1), (3), (4), (5), or (7) of this subsection;

(11) All books or records used, or intended for use in violation of this chapter;

(12) All money which has been used, or is intended for use, in violation of this chapter; and

(13) All conveyances, including aircraft, vehicles, or vessels, or any other property which are used to transport or conceal, or intended for use in transporting or concealing, or in any manner used to facilitate the transportation or concealment of, property described in paragraphs (1), (3), (4), (7), and (9) of this subsection.

(b) The following conveyances shall not be subject to forfeiture under this section:

(1) A conveyance used by any person as a common carrier in the transaction of business as a common carrier, unless it appears that the owner or other person in charge of the conveyance was a consenting party, or privy to the violation of this chapter on account of which the conveyance was seized; or

(2) A conveyance that is subject to seizure and forfeiture under this section by reason of any act committed, or omission established by the owner thereof, to have been committed or omitted by any person other than such owner, while such conveyance was unlawfully in the possession of a person other than the owner, in violation of the criminal laws of the United States, the District, or any other state.

(c) All property which is seized under subsection (a) of this section shall be promptly delivered to the Mayor and placed under seal, or removed to a place designated by the Mayor. Such property shall be proceeded against in the Superior Court of the District of Columbia by libel action brought in the name of the District of Columbia by the Corporation Counsel or any of his assistants and shall, unless good cause be shown to the contrary, be forfeited to the District; provided, that such property shall not be subject to replevin, but is deemed to be in the custody of the Mayor subject only to the orders, decrees, and judgments of the court having jurisdiction over the forfeiture proceedings, and; provided, further, that notwithstanding the provisions of this section, whenever such property is subject to seizure and forfeiture on account of failure to comply with the provisions of this chapter and the Mayor determines that such failure was excusable, the Mayor may return the property to the owner or owners thereof. Whenever the Mayor determines that any property seized under subsection (a) of this section is liable to perish or become greatly reduced in price or value by keeping such property until the completion of forfeiture proceedings, the Mayor may:

(1) Appraise the property and return the property to the owner thereof upon the owner paying any tax due under this chapter and giving satisfactory bond in an amount equal to the appraised value to abide the final order, decree, or judgment of the court having jurisdiction over the forfeiture proceedings, and to pay the amount of such appraised value to the Mayor as may be ordered and directed by such court; or

(2) If the owner neglects or refuses to pay such tax and give such bond, sell such property in the manner provided by the Mayor by regulation, and the proceeds of the sale of such property, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(d) After the final order, decree, or judgment is made, forfeited property shall be made available for the official use of any agency of the District government, disposed of by public auction, or otherwise disposed of as the Mayor may prescribe. If there is a bona fide prior lien against such forfeited property, the Mayor may (1) make payment of such lien and retain the property for official use, or (2) dispose of such property by public auction, and the proceeds of the sale of such property shall be made available, first, for the payment of any tax due under this chapter and all expenses incident to the seizure, forfeiture, and sale of such property, and, second, for the payment of such lien, and the remainder shall be deposited with the Treasurer of the District of Columbia; provided, that no payment of a lien shall be made where the lienor was a consenting party or privy to the violation of this chapter on account of which the property was seized and forfeited. To the extent necessary,

liens against forfeited property shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

(e) Whenever any cigarettes are found in any vending machine in violation of the provisions of § 47-2402(g), the Mayor shall seal the machine to prevent the sale or removal of any cigarettes from the machine until such time as the violation is corrected in the presence of the Mayor. The operator of such vending machine shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both; provided, that if the vending machine contains cigarettes described in paragraph (1) of subsection (a) of this section, the operator shall, in addition, be subject to the penalties imposed by the other provisions of this chapter. Any person, other than the Mayor, who removes or otherwise tampers with any seals placed on a vending machine by the Mayor shall be subject to the penalties imposed by § 47-2414.

(f) Any person whose property has been seized and forfeited under this section shall not be relieved from any other penalty imposed by this chapter. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 610; Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); 1973 Ed., § 47-2809; Mar. 3, 1979, D.C. Law 2-139, § 3205(r), 25 DCR 5740; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to return of property by Property Clerk, see § 4-157.

Section references. — This section is referred to in §§ 1-637.1 and 47-2405.

Legislative history of Law 2-139. — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was

adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-71. — See note to § 47-2401.

Cited in *District of Columbia v.* 313 M St., App. D.C., 633 A.2d 820 (1993).

§ 47-2410. Deficiency in tax.

(a) The Mayor may determine, redetermine, assess, or reassess any tax due under this chapter. If a deficiency in tax is determined by the Mayor, the person liable for the payment thereof shall be notified of the determination of a deficiency by registered or certified mail sent to such person's last known address. The notification shall give a period of not less than 30 days after such notice is sent within which to file a protest with the Mayor, and show cause or reason why the deficiency should not be paid. If no protest is filed within such 30-day period, the deficiency, as determined by the Mayor, shall be final. If a protest is filed within the period of 30 days, opportunity for hearing thereon shall be granted by the Mayor, a final decision thereon shall be made, and notice of such decision, together with a statement of taxes finally determined to be due, shall be sent by registered or certified mail to the last known address of the person liable for the payment of the deficiency.

(b) Any deficiency in tax which has become final in accordance with the provisions of subsection (a) of this section shall, if no protest is filed, be due and payable within 10 days after the expiration of the 30-day period provided in subsection (a) of this section, and, if a protest is filed, shall be due and payable

within 10 days after notice of the final decision of the Mayor upon such protest is mailed to the person liable for payment of the deficiency. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 611; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, 581, Pub. L. 91-358, title I, §§ 155(a), 161(d)(1); 1973 Ed., § 47-2810; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Oct. 5, 1985, D.C. Law 6-42, § 443, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(q), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2413.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 6-42. — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-237. — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

§ 47-2411. Redemption of cigarette or alcoholic beverage tax stamps.

(a) Where any cigarette or alcoholic beverage tax stamps issued under District of Columbia tax laws have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, the amount paid for such stamps may be refunded within the limit of appropriations therefor, or allowed as a credit on the purchase of new stamps. No such refund or allowance shall be made unless the owner of such stamps shall file a written claim therefor with the Mayor of the District of Columbia or his designated agent within the time prescribed in this section and unless the Mayor or his designated agent upon receipt of satisfactory evidence of the facts, and subject to regulations prescribed by the Council of the District of Columbia, certifies that such refund or allowance is just and equitable.

(b) No refund or allowance shall be made in any case (1) until the stamps so spoiled or rendered useless shall have been returned to the Mayor or his designated agent, (2) until satisfactory proof has been made to the Mayor or his designated agent showing the reason why the same cannot be returned, or (3) if so required by the Mayor or his designated agent, unless the person presenting the same can satisfactorily trace the history of said stamps from their issuance to the filing of his claim as aforesaid; provided, that no refund shall be made in those cases where the owner may be made whole by allowing him a credit on the purchase of new stamps, and provided further, that no claim for a refund, or allowance for such stamps, shall be allowed unless presented within 6 months after the stamps have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or, in the case of stamps for which the owner may have no use, within 6 months from the date of purchase

thereof, except that as to stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, prior to June 3, 1954, a claim for a refund or allowance for credit may be filed within 6 months after June 3, 1954. (June 3, 1954, 68 Stat. 169, ch. 252, §§ 1, 2; 1973 Ed., § 47-2811; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to beverage tax stamps, see § 25-124.

§ 47-2411.1. Penalty; interest.

For failure to file a return or failure to pay the tax to the District, penalties and interest shall be added to the tax in accordance with §§ 47-453 through 47-458. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 612; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Feb. 28, 1987, D.C. Law 6-209, § 406, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2405.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 6-209. — Law 6-209, the "Tax Amnesty Act of 1986," was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on

first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-2412. Refunds.

Where any tax, penalty, or interest has been erroneously or illegally collected by the Mayor, the tax, penalty, or interest shall be refunded if an application for such refund, under oath, is filed with the Mayor within 1 year after the date of the payment of such tax. An application for a refund may be filed only by the person upon whom such tax, penalty, or interest was imposed and who has actually paid the tax, penalty, or interest. An application for a refund shall be deemed a request for revision or abatement of an assessment. Upon filing of a valid application for refund, the Mayor shall either (1) grant the application, or (2) grant the applicant a hearing. After such hearing, the Mayor shall make findings, grant or deny the application for a refund in accordance with such findings, and notify the applicant of the findings and decision of the Mayor by regular mail. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 613; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2413. Appeals.

Any person, (1) aggrieved by a final determination of tax, or (2) aggrieved by a denial of a claim for refund (other than a refund of tax finally determined

under § 47-2410), may, within 6 months from the date of the final determination or from the date of denial of the claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 614; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2414. Penalties.

(a) Any person who is required by this chapter or by regulations issued hereunder to pay a tax or make a return, or to keep any records, or to supply any information for the purposes of computation, assessment, or collection of the taxes imposed by this chapter, who, willfully, fails to pay such tax, or to make any such return, or to keep any such records, or to supply any such information, at the time or times required by law or regulations shall, in addition to any other penalties provided by this chapter upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than 3 years, or both. Each and every failure and each and every day during which such failure continues shall constitute a separate and distinct offense.

(b) Any person who violates any provision of this chapter or of the regulations issued under this chapter, for which no specific penalty is otherwise provided by this chapter, shall, upon conviction, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

(c) The penalties imposed by this chapter shall be in addition to, and not in lieu of, any penalties imposed by any other law or regulation.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 615; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Mar. 8, 1991, D.C. Law 8-237, § 2(q), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2409 and 47-2418.

Legislative history of Law 4-71. — See note to § 47-2401.

Legislative history of Law 8-237. — See note to § 47-2410.

§ 47-2415. Regulations.

The Mayor may issue regulations necessary to carry out the provisions of this chapter. (May 27, 1949, 63 Stat. 136, ch. 146, title VI, § 616; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2416. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter, and the application of such provisions to other persons or circumstances shall not be affected thereby. (May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 617; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2417. Effective date.

The provisions of this chapter shall take effect on April 9, 1982. (Mar. 10, 1982, D.C. Law 4-71, § 4(b), 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-71. — See note to § 47-2401.

§ 47-2418. Cigarette tax stamps purchased or held prior to effective date; payment of tax; records.

(a) Any wholesaler, retailer, or vending machine operator licensed under § 47-2404(b) who has purchased any cigarette tax stamps, affixed to a cigarette package or otherwise, prior to July 1, 1993, or that are otherwise held on July 1, 1993, shall:

(1) Pay to the Mayor, in accordance with paragraph (2) of this subsection, an amount equal to the difference between the amount of tax represented by cigarette tax stamps purchased prior to July 1, 1993, and held on July 1, 1993, and the amount of tax that an equal number of cigarette tax stamps would represent if purchased on July 1, 1993;

(2) File with the Mayor, within 20 days after July 1, 1993, on a form to be prescribed by the Mayor, a statement showing the number of cigarette tax stamps held by him or her as of July 1, 1993, and pay to the Mayor, the amount specified in paragraph (1) of this subsection; and

(3) Keep and preserve for the 12-month period immediately following July 1, 1993, the inventories and other records that form the basis for the information furnished to the Mayor under paragraph (2) of this subsection.

(b) For the purposes of this section, a tax stamp shall be considered to be held by a wholesaler, retailer, or vending machine operator:

(1) If title is passed to the wholesaler, retailer, or vending machine operator, whether or not delivery to him or her has been made; and

(2) If title has not at any time been transferred to any person other than a wholesaler, retailer, or vending machine operator.

(c) Any violations of this section shall be punishable as provided in § 47-2414.

(d) Prosecutions under this section shall be brought on information in the Superior Court of the District of Columbia by the Corporation Counsel. (May 27, 1949, ch. 146, Title VI, § 618, as added Feb. 28, 1987, D.C. Law 6-198, § 2(b), 34 DCR 515; Aug. 17, 1991, D.C. Law 9-19, title I, § 114(b), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-31, § 2(b), 38 DCR 4218; July 23, 1992, D.C. Law 9-134, § 109(a), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 109(b), 39 DCR 4895; Aug. 6, 1993, D.C. Law 10-11, § 113(b), 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 113(b), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-198. — Law 6-198, the "Cigarette Tax Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-413, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-257 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-19. — See note to § 47-2402.

Legislative history of Law 9-31. — See note to § 47-2402.

Legislative history of Law 9-134. — See note to § 47-2402.

Legislative history of Law 9-145. — See note to § 47-2402.

Legislative history of Law 10-11. — See note to § 47-2402.

Legislative history of Law 10-25. — See note to § 47-2402.

Effective date. — Section 3(b) of D.C. Law 6-198 provided that: "The provisions of section 2 shall not operate before the 1st day of the 1st month that begins more than 30 days after February 28, 1987."

Mayor to report fiscal impact of Law 10-25. — Section 113(c) of D.C. Law 10-25 provided that the Mayor shall report to the Council within 6 months of implementation on the fiscal impact of this section.

CHAPTER 25. FINANCIAL INSTITUTION, GUARANTY COMPANY, AND PUBLIC UTILITY TAXES.

Sec.	Sec.
47-2501. Gas, electric lighting, telephone, and telecommunications companies.	47-2508. Applicability of acts of Congress to national banks in the District of Columbia.
47-2501.1. Television, video, or radio service to subscribers or paying customers.	47-2509. Declaration and payment of estimated tax.
47-2502. Bonding, title, guaranty and fidelity companies.	47-2510. Personal property tax provisions applicable to financial institutions.
47-2503. Private banks.	47-2511. Severability.
47-2504. Washington Stock Exchange.	47-2512. Savings clause.
47-2505. Note brokers.	47-2513. Rules and regulations.
47-2506. Payment of tax by private banks and note brokers.	47-2514. Real property tax provisions applicable to financial institutions.
47-2507. Transitional rules for taxing financial institutions.	47-2515. Effective date.

§ 47-2501. Gas, electric lighting, telephone, and telecommunications companies.

(a) Before the 21st day of each calendar month, each gas, electric lighting and telephone company that sells public utility services or commodities within the District, and each person who, by any method of delivery, delivers heating oil to an end-user in the District shall:

(1) File an affidavit with the Mayor indicating the amount of its gross receipts for the preceding calendar month from the sales or distribution of public utility services and commodities or the delivery of heating oil to an end-user in the District;

(2) Until May 31, 1994, pay to the Mayor 9.7% of these gross receipts; and

(3) After May 31, 1994, pay to the Mayor 10% of these gross receipts from sales included in bills rendered after May 31, 1994, for a telephone company, 10% of these gross receipts from deliveries made after May 31, 1994, for a person who delivers heating oil to an end-user in the District, or 10% of these gross receipts from sales determined from meters read after May 31, 1994, for an electric lighting or gas company.

(b)(1)(A) For the period beginning July 1, 1986, and ending February 28, 1989, each telecommunication company not subject to the tax imposed by subsection (a) of this section shall:

(i) Report by affidavit filed with the Mayor the amount of its monthly gross receipts from the sale of toll telecommunication services that originate from or terminate on telecommunication equipment located in the District and for which a toll charge or periodic charge is billed to an apparatus, telephone, or account in the District, to a customer location in the District, or to a person residing in the District, without regard to where the bill for the service is physically received; and

(ii) Pay to the Mayor 6.7% of these gross receipts.

(B) To prevent actual multi-state taxation of the sale of toll telecommunication service, for the month beginning July 1, 1986, and for each succeeding month, any telecommunication company, upon proof that it has paid a properly due excise, sales, use, or gross receipts tax in another jurisdiction on a sale that

is subject to taxation under this act, shall be allowed a credit against the tax for the amount paid, but in no event shall the credit permitted under this section exceed the tax imposed under this act.

(2) For each calendar month in the period beginning after September 30, 1987, and ending February 28, 1989, each telecommunication company shall pay the gross receipts tax imposed by this subsection before the 21st day of the succeeding calendar month. The affidavits for each calendar month shall be filed at the time payment is made or on the 20th day of the succeeding calendar month, whichever is earlier.

(3)(A) For the period beginning July 1, 1986, and ending August 31, 1987, the gross receipts tax imposed by this subsection shall be due on October 1, 1987. The tax for this period shall be paid in 2 equal installments before November 1, 1987, and before January 1, 1988. The Mayor may, upon written application made before the date prescribed for payment of the tax, grant a reasonable extension of time for paying the tax whenever good cause exists for the extension. The affidavits for each calendar month of this period shall be filed at the time the first installment payment is made or on October 30, 1987, whichever is earlier.

(B) For the period beginning September 1, 1987, and ending September 30, 1987, the gross receipts tax imposed by this subsection shall be paid before October 21, 1987. The required affidavit shall be filed at the time the payment is made or on October 20, 1987, whichever is earlier.

(C) Each telecommunication company subject to the gross receipts tax imposed by this subsection for the period beginning July 1, 1986, and ending September 30, 1987, shall be allowed a credit against the gross receipts tax imposed by this subsection for the amount of personal property tax that is allocable to the period beginning July 1, 1986, and ending September 30, 1987, and that is paid pursuant to § 47-1501, and subchapter II of Chapter 15 of this title.

(D) Beginning July 1, 1986, a telecommunication company subject to the tax imposed by this act may be allowed an alternate method of reporting its monthly gross receipts upon showing, to the satisfaction of the Mayor that the telecommunication company does not have the capability to identify the jurisdiction of origination or termination of a particular toll telecommunication service. This showing shall be made by a written petition to the Mayor, which shall include the factual basis for the company's inability to identify the jurisdiction of origination or termination of a particular toll telecommunication service, with supporting documentation, and an alternative method of reporting for the services for which the company is unable to identify the jurisdiction of origination or termination that the company believes is reasonable and equitable, with supporting documentation. The Mayor may employ a reasonable and equitable alternate method for reporting a telecommunication company's gross receipts from this service based on information submitted pursuant to this subsection or any other information made available to the Mayor. Any alternate method for reporting a telecommunication company's gross receipts that is authorized by the Mayor shall apply only to the service for which the company is unable to identify the jurisdiction of origination or

termination and shall not affect the reporting of any other gross receipts. Nothing in this section shall be deemed to relieve the obligation of a telecommunication company to pay the tax imposed by this act.

(4) Gross receipts from the sale by any telecommunication company of toll telecommunication services for resale to any other telecommunication company subject to the gross receipts tax under this subsection shall be exempt from the gross receipts tax under this subsection.

(5) For purposes of this subsection:

(A) The term "telecommunication company" includes and is not limited to every person, as defined in § 47-2001(i), and lessee of a person who provides for the transmission or reception within the District of Columbia of any form of toll telecommunication service for a consideration.

(B) The term "toll telecommunication service" means the transmission or reception of any sound, vision, or speech communication for which there is a toll charge that varies in amount with the distance or elapsed transmission time of each individual communication; or the transmission or reception of any sound, vision, or speech communication that entitles a person, as defined in § 47-2001(i), upon the payment of a periodic charge, which is determined as a flat amount or upon the basis of total elapsed transmission time, to an unlimited number of communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area that is outside the local telephone system area in which the station providing this service is located.

(c) Notwithstanding any other provision of law, each gas, electric lighting, telephone company, telecommunication company, and each person who, by any method of delivery, delivers heating oil to an end-user in the District subject to the tax imposed by this section shall pay, in addition to the gross receipts tax, the franchise tax imposed by Chapter 18 of this title, the real property tax imposed by Chapter 8 of this title, and the personal property tax imposed by § 47-1501, and subchapter II of Chapter 15 of this title, to the extent provided in § 47-1508.

(d) Before February 1, 1988, the Mayor shall:

(1) Report to the Council on the tax treatment of telecommunication and related services in other jurisdictions; and

(2) Make recommendations as to what, if any, additional telecommunication and related services should be subject to tax by the District.

(e) The Mayor shall issue retroactive and prospective rules necessary to carry out the provisions of this section in accordance with § 1-1506. (July 1, 1902, 32 Stat. 617, ch. 1352, § 6, par. 5; July 26, 1939, 53 Stat. 1107, ch. 367, title IV, § 2(a); May 18, 1954, 68 Stat. 118, ch. 218, title XIV, § 1401; July 24, 1956, 70 Stat. 599, ch. 669, § 8(a); Oct. 21, 1972, 86 Stat. 1016, Pub. L. 92-518, title III, § 303(a); 1973 Ed., § 47-1701; Oct. 21, 1975, D.C. Law 1-23, title V, § 501(a)(1), 22 DCR 2105; Sept. 13, 1980, D.C. Law 3-95, § 201(a), (b), 27 DCR 3509; June 22, 1983, D.C. Law 5-14, § 102, 30 DCR 2632; Oct. 1, 1987, D.C. Law 7-25, § 2, 34 DCR 5068; May 23, 1989, D.C. Law 8-4, § 22, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 22, 36 DCR 4723; Aug. 17, 1991, D.C. Law 9-34, § 2, 38 DCR 4223; June 11, 1992, D.C. Law 9-124, § 2, 39 DCR 3205;

Aug. 17, 1991, D.C. Law 9-34, § 2, 38 DCR 4223; June 11, 1992, D.C. Law 9-124, § 2, 39 DCR 3205; Sept. 10, 1992, D.C. Law 9-145, § 110(a), 39 DCR 4895; Feb. 5, 1994, D.C. Law 10-68, § 48, 40 DCR 6311; June 14, 1994, D.C. Law 10-128, §§ 106(a), 106(b), 41 DCR 2096; Apr. 18, 1996, D.C. Law 11-110, § 55, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to definition of taxable income for purposes of tax on corporations, see § 47-1807.1.

As to transitional rules for taxing financial institutions, see § 47-2507.

Section references. — This section is referred to in §§ 47-451, 47-1503, 47-1508, 47-1603, 47-1604, 47-1810.1, 47-2001, 47-2005, 47-2201, and 47-2507.

Effect of amendments. — D.C. Law 11-110 validated a previously made substitution of "services" for "service" in the introductory language of (a).

Temporary amendments of section. — Section 2(a) of D.C. Law 11-260 added (a)(5)(A) to read as follows:

"(a)(5)(A) Before the 21st day of each calendar month, each gas, electric lighting, and telephone company that sells public utility services or commodities within the District, and each person who, by any method of delivery, delivers heating oil to an end-user in the District, and each nonpublic utility who sells natural or artificial gas that is delivered, by any method, to an end-user located in the District shall:

"(i) File an affidavit with the Mayor indicating the amount of its gross receipts for the preceding calendar month from:

"(I) Sales or distribution of public utility services and commodities;

"(II) Delivery of heating oil to an end-user in the District; or

"(III) Sale of natural or artificial gas by a nonpublic utility that is delivered, by any method, to an end-user located in the District.

"(ii) Until May 31, 1994, pay to the Mayor 9.7% of these gross receipts;

"(iii) After May 31, 1994, pay to the Mayor 10% of the gross receipts from sales included in bills rendered after May 31, 1994, for a telephone company; 10% of the gross receipts from deliveries made after May 31, 1994, for a person who delivers heating oil to an end-user in the District; or 10% of the gross receipts from sales determined from meters read after May 31, 1994, for an electric lighting or gas company; and

"(iv) After December 15, 1996, pay to the Mayor 10% of the gross receipts from sales of natural or artificial gas by a nonpublic utility person delivered after December 15, 1996, by any method, to an end-user located in the District."

Section 2(b) of D.C. Law 11-260 amended (c) to read as follows:

"(c) Notwithstanding any other provision of law, each gas company, electric lighting company, telephone company, telecommunication company, and each person who, by any method of delivery, delivers heating oil to an end-user in the District, and each nonpublic utility who sells natural or artificial gas that is delivered, by any method, to an end-user located in the District who is subject to the tax imposed by this section shall pay, in addition to the gross receipts, if applicable, the franchise tax imposed by the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 331; D.C. Code § 47-1801.1 et seq.), the real property tax imposed by the District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1052; D.C. Code § 47-1801 et seq.), the personal property tax imposed by An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 Stat. 617; D.C. Code § 47-2501), and the Personal Property Tax Amendment Act of 1986, effective February 28, 1987 (D.C. Law 6-212; D.C. Code § 47-1521 et seq.), to the extent provided in section 6(10) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 Stat. 620; D.C. Code § 47-1508)."

Section 5(b) of D.C. Law 11-260 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508, January 17, 1997, 44 DCR 1227), and § 2 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

For temporary policy statement of act, see § 4 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508, January 17, 1997, 44 DCR 1227).

For temporary policy statement of act, see § 4 of the Natural and Artificial Gas Gross

Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

Legislative history of Law 1-23. — Law 1-23, the "Revenue Act of 1975," was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-95. — See note to § 47-2510.

Legislative history of Law 5-14. — Law 5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-25. — Law 7-25, the "Gross Receipt Tax Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-4. — Law 8-4, the "Toll Telecommunications Service Tax Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-177. The Bill was adopted on first and second readings on February 28, 1989 and March 14, 1989, respectively. Signed by the Mayor on March 29, 1989, it was assigned Act No. 8-14 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-26. — Law 8-26, the "Toll Telecommunications Service Tax Act of 1989," was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-34. — Law 9-34, the "District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-221. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991,

respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-61 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-124. — Law 9-124, the "District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-464. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-198 and transmitted to both Houses of Congress for its review. D.C. Law 9-124 became effective on June 11, 1992.

Legislative history of Law 9-145. — See note to § 47-2501.1.

Legislative history of Law 10-68. — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 11-260. — Law 11-260, the "Natural and Artificial Gas Gross Receipts Tax Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-950, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 1996, and January 7, 1997, respectively. Signed by the Mayor on January 23, 1997, it was assigned Act No. 11-527 and transmitted to both Houses of Congress for its review. D.C. Law 11-260 became effective on April 25, 1997.

References in text. — “This act”, referred to in two places in (b)(1)(C), and two places in (b)(3)(D), is D.C. Law 7-25.

Section 47-1501, referred to in subsections (b)(3)(C) and (c) of this section, was repealed by § 24 of D.C. Law 6-212.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Delegation of authority under Law 5-14. — See Mayor’s Order 83-190, July 25, 1983.

Delegation of Authority Pursuant to D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987”. — See Mayor’s Order 94-120, May 16, 1994 (41 DCR 3240).

Tax is a franchise and is not a burden on commerce. *Potomac Elec. Power Co. v. Hazen*, 90 F.2d 406 (D.C. Cir.), cert. denied, 302 U.S. 692, 58 S. Ct. 11, 82 L. Ed. 535 (1937).

Tax is an excise tax on privilege of furnishing franchised public utility services in the District. *C & P Tel. Co. v. District of Columbia*, 325 F.2d 217 (D.C. Cir. 1963).

And a franchise tax is distinguished from a property tax. *Potomac Elec. Power Co. v. Rudolph*, 29 F.2d 634 (D.C. Cir. 1928), cert. denied, 278 U.S. 656, 49 S. Ct. 185, 73 L. Ed. 565 (1929).

Section covers gross earnings from whatever source. *Potomac Elec. Power Co. v. Hazen*, 90 F.2d 406 (D.C. Cir.), cert. denied, 302 U.S. 692, 58 S. Ct. 11, 82 L. Ed. 535 (1937).

Successor which assumes all liabilities of predecessor is liable for gross receipts tax on his predecessor’s earnings. *District of Columbia Transit Sys. v. Pearson*, 149 F. Supp. 18 (D.D.C. 1957), rev’d on other grounds, 250 F.2d 765 (D.C. Cir. 1957).

Deduction from gross receipts. — Where a telephone company does not print its telephone directories but buys them as finished products, it is entitled to deduct the amount which it paid from its gross receipts. *C & P Tel. Co. v. District of Columbia*, 137 F.2d 674 (D.C. Cir. 1943).

Street equipment of an electric power company is not “real estate.” *Rudolph v. Potomac Elec. Power Co.*, 24 F.2d 882 (D.C. Cir. 1928), cert. denied, 278 U.S. 656, 49 S. Ct. 185, 73 L. Ed. 565 (1929).

“Sale of public utility commodities and services” does not include a telephone company supplying public utility commodities to other telecommunications carriers which, in turn, provide service for the telephone company’s customers; and, therefore, the network access revenues derived therefrom are not taxable under this section. *C & P Tel. Co. v. District of Columbia*, 113 WLR 1829 (Super. Ct. 1985).

Long distance access charges. — When a public service company supplies services or facilities to another public utility company in the same field for the sole purpose of enabling the latter company to serve its customers more efficiently, such services are not public utility commodities or services within the meaning of the statute, and thus are not subject to the gross receipts tax. *District of Columbia v. C & P Tel. Co.*, App. D.C., 516 A.2d 181 (1986).

Collection of “tax-on-tax” by public utilities. — Orders of the Public Service Commission of the District of Columbia holding that the District’s gross receipts tax allows public utilities to collect a “tax-on-tax” from their customers were not precluded by the plain language of this section. *Stiehler v. Public Serv. Comm’n*, App. D.C., 629 A.2d 1211 (1993).

Cited in American Sec. & Trust Co. v. District of Columbia, 91 F. Supp. 713 (D.D.C. 1950), aff’d, 202 F.2d 21 (D.C. Cir. 1953); *District of Columbia v. National Bank*, App. D.C., 431 A.2d 1 (1981); *Washington Gas Light Co. v. Public Serv. Comm’n*, App. D.C., 452 A.2d 375 (1982), cert. denied, 462 U.S. 1107, 103 S. Ct. 2454, 77 L. Ed. 2d 1334 (1983); *C & P Tel. Co. v. Public Serv. Comm’n*, App. D.C., 498 A.2d 1167 (1985); *Barry v. AT & T Co.*, App. D.C., 563 A.2d 1069 (1989), rev’d sub nom. on other grounds, *Sprint Communications Co. v. Kelly*, App. D.C., 642 A.2d 106, cert. denied, — U.S. —, 115 S. Ct. 294, 130 L. Ed. 2d 208 (1994).

§ 47-2501.1. Television, video, or radio service to subscribers or paying customers.

(a) On a quarterly basis and at the quarterly intervals prescribed by the Mayor, each company that sells or charges for cable television service, satellite relay television service, and any and all other distribution of television, video, or radio service with or without the use of wires provided to subscribers or paying customers, whether for basic service, ancillary service, or other special service, and any other charges related to providing the services within the District of Columbia, including, but not limited to, rental of signal receiving equipment, shall:

(1) File an affidavit with the Mayor indicating the amount of its gross receipts for the preceding calendar month from the sale of or charges for the services within the District;

(2) Until May 31, 1994, pay to the Mayor 9.7% of these gross receipts; and

(3) After May 31, 1994, pay to the Mayor 10% of its gross receipts from sales included in bills rendered after May 31, 1994.

(b) Notwithstanding any other provision of law, each company subject to the tax imposed by this section shall pay, in addition to the gross receipts tax, the franchise tax imposed by Chapter 18 of this title, the real property tax imposed by Chapter 8 of this title, the personal property tax imposed by § 47-1521 et seq., to the extent provided in § 47-1508.

(c) For the purpose of this section, the term "company" does not include a nonprofit educational organization that provides programming to subscribers or other persons under an Instructional Television Fixed Service License issued by the Federal Communications Commission. The gross receipts of a nonprofit educational organization that provides programming to subscribers or other persons under an Instructional Television Fixed Service License issued by the Federal Communications Commission shall not be subject to the tax established by this section. (July 1, 1992, ch. 1352, § 6, par. (5A), as added July 23, 1992, D.C. Law 9-134, § 110(a), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 110(b), 39 DCR 4895; Oct. 7, 1992, D.C. Law 9-177, § 10(b), 39 DCR 5868; June 14, 1994, D.C. Law 10-128, § 106(c), 41 DCR 2096; May 16, 1995, D.C. Law 10-255, § 45, 41 DCR 5193; Apr. 9, 1997, D.C. Law 11-198, § 104, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

Effect of amendments. — D.C. Law 10-255 made subsection designation changes in the original act.

D.C. Law 11-198 substituted "On a quarterly basis and at the quarterly intervals prescribed by the Mayor" for "Before the 21st day of each calendar month" in (a).

Emergency act amendments. — For temporary amendment of section, see § 106 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

For temporary repeal of § 106 of D.C. Act 11-360, see § 2(d) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29,

1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 9-177. — Law 9-177, the "Real Property Tax Rates for Tax Year 1993 and Real Property Tax Revision and Reclassification Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-563, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 23, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 28, 1992, it was assigned Act No. 9-283 and transmitted to both Houses of Congress for its review. D.C. Law 9-177 became effective on October 7, 1992.

Legislative history of Law 10-128. — See note to § 47-2501.

Legislative history of Law 10-255. — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and

assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

References in text. — The “Personal Property Tax Amendment Act of 1986,” referred to in (b), is D.C. Law 6-212, codified as § 47-811 and Chapters 15 to 17 of this title.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

§ 47-2502. Bonding, title, guaranty and fidelity companies.

All companies, incorporated or otherwise, who guarantee the fidelity of any individual or individuals, such as bonding companies, and all companies who furnish abstracts of titles to real property, or who insure real estate titles, shall pay to the Collector of Taxes of the District of Columbia 3% of their gross receipts in the District of Columbia. (July 1, 1902, 32 Stat. 619, ch. 1352, § 6, par. 6; Apr. 28, 1904, 33 Stat. 564, ch. 1815; 1973 Ed., § 47-1702; Oct. 21, 1975, D.C. Law 1-23, title V, § 501(a)(2), 22 DCR 2105; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

Legislative history of Law 1-23. — See note to § 47-2501.

Office of Collector of Taxes abolished. — See note to § 47-401.

Words “gross receipts” are not equivalent to the words “consideration re-

ceived.” Suburban Title & Inv. Corp. v. District of Columbia, 180 F.2d 387 (D.C. Cir. 1950).

Foreign corporation transacting business in District is subject to District gross receipts tax. Suburban Title & Inv. Corp. v. District of Columbia, 180 F.2d 387 (D.C. Cir. 1950).

§ 47-2503. Private banks.

Private banks or bankers not incorporated shall pay a tax of \$500 per annum. Every person, firm, company, or association not incorporated having a place of business where credits are opened by the deposit or collection of moneys or currency subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a private bank or banker. (July 1, 1902, 32 Stat. 621, ch. 1352, § 6, par. 14; 1973 Ed., § 47-1706; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

§ 47-2504. Washington Stock Exchange.

The Washington Stock Exchange, through its president or treasurer, shall pay to the Collector of Taxes of the District of Columbia a sum equal to \$500 per annum in lieu of tax on the members thereof for business done on said exchange. (July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 15; 1973 Ed., § 47-1707; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2505. Note brokers.

Note brokers shall pay a tax of \$100 per annum. Every person, firm, company, or association not incorporated (except private banks and bankers) that loans money on promissory notes without real estate or collateral security or advances money on personal property as security without possession of said personal property shall be deemed a note broker; provided, that exception shall be made of cooperative associations whose business is restricted to the members of such association. (July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 16; 1973 Ed., § 47-1708; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

§ 47-2506. Payment of tax by private banks and note brokers.

The taxes for said private banks and bankers, and note brokers shall be paid to the Collector of Taxes of the District of Columbia, and shall date from the first day of July in each year and expire on the 30th day of June following. Said taxes shall date from the first day of the month in which the liability begins, and payment shall be made for a proportionate amount. (July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 17; 1973 Ed., § 47-1709; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1603 and 47-1604.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2507. Transitional rules for taxing financial institutions.

(a) *Short period.* — (1) For financial institutions with a federal taxable year ending on a date other than June 30th, a short period return must be filed and the tax computed in accordance with § 47-2501 for the period from July 1, 1981, to the end of the taxpayer's tax year for federal income tax purposes (federal tax year).

(2) The short period return required in paragraph (1) of this subsection shall be filed on or before the last day of the month following the close of the taxpayer's federal tax year.

(3) Financial institutions required to file a return as described in this subsection are required to make estimated tax payments as follows:

(A) Pay an amount in the short period divided by 12 multiplied by the amount of its tax liability as of June 30, 1980;

(B) If the taxpayer's short period is 9 months or less, no additional estimated tax payment is due; and

(C) If the taxpayer's short period is more than 9 months, a second estimated tax payment is due March 31, 1982, in an amount computed in subparagraph (A) of this paragraph.

(b) *Transition period.* — (1)(A) The first transition year is a financial institution's first full taxable year for federal income tax purposes beginning on or after July 1, 1981.

(B) A taxable year for purposes of this subsection is a 12-month period.

(2)(A) For each of the 3 transition years, each financial institution shall calculate its tax liability and file returns under both the gross earnings tax and the franchise tax for the 3 taxable years of the transition period. Each financial institution shall calculate its tax liability as follows:

(i) For the first transition year, the franchise tax plus 100% of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax; and

(ii) For the 2nd transition year, the franchise tax plus 66 $\frac{2}{3}$ % of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax;

(iii) For the 3rd transition year, the franchise tax plus 33 $\frac{1}{3}$ % of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax.

(B) In no event shall the total tax levied be less than the franchise tax plus the personal property tax. Any gross earnings tax paid or accrued under the provisions of this section shall not be allowed as a deduction in arriving at the franchise tax liability.

(3)(A) During the 3-year transition period described in paragraph (2) of this subsection, every financial institution shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax during its taxable year in such amounts and under such conditions as prescribed in § 47-1812.14 and regulations relating thereto.

(B) For every financial institution required to file a gross earnings tax return and a franchise tax return under the 3-year transition period described in paragraph (2) of this subsection, the underpayment of estimated taxes

pursuant to § 47-1812.14(b) for each taxable year within the transition period shall be the excess of:

(i) The cumulative amount of the installments of estimated franchise taxes and gross earnings taxes which would be required to be paid if the estimated taxes were equal to 80% of the sum of the taxes shown on the franchise tax return for the taxable year and the gross earnings tax return for the taxable year, or if a franchise tax return or a gross earnings tax return or both were not filed for the taxable year, 80% of the total franchise taxes and gross earnings taxes for such year, over

(ii) The cumulative amount of installments paid for gross earning taxes for the taxable year plus the cumulative amount of installments paid for franchise taxes for the taxable year on or before the date prescribed for payment pursuant to law or regulation.

(C) After the 3-year transition period, the gross earnings tax provided by § 47-2501 shall not apply to financial institutions and each financial institution shall be subject to the franchise tax as provided by Chapter 18 of this title.

(c) *Gross earnings tax return filing.* — The gross earnings required for each of the 3 transition years shall be filed with the Mayor on or before the 15th day of March in each year; except, that such returns, if made on the basis of a fiscal year, shall be filed on or before the 15th day of the 3rd month following the close of such fiscal year. During the transition period referred to in subsection (b), there shall be excluded from the gross earnings tax and franchise tax computation all earnings resulting from any IBF time deposit or IBF loan.

(d) *Filing extension.* — The Mayor may grant a reasonable extension of time for filing the returns required by subsection (c) of this section whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. Except in the case of a taxpayer who is not within the continental limits of the United States, no extension shall be granted for more than 6 months, and in no case shall such extension be granted for more than 1 year. (July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 20; Sept. 13, 1980, D.C. Law 3-95, § 301, 27 DCR 3509; July 24, 1982, D.C. Law 4-130, § 3, 29 DCR 2412; Sept. 17, 1982, D.C. Law 4-150, § 201, 29 DCR 3377; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to tax on gas, electric lighting and telephone companies, see § 47-2501.

As to declaration and payment of estimated tax, see § 47-2509.

Section references. — This section is referred to in §§ 47-1807.2, 47-1812.14, and 47-2515.

Legislative history of Law 3-95. — See note to § 47-2510.

Legislative history of Law 4-130. — Law 4-130, the "Technical Amendments to the District of Columbia Financial Institutions Tax Act of 1980 and alley closing in square 569 Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-328, which was referred to the Committee on Finance and Revenue. The

Bill was adopted on first and second readings on April 27, 1982 and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-195 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-150. — Law 4-150, the "International Banking Facilities Tax District of Columbia Redevelopment Act of 1945 Amendment, and Cable Television Communications Act of 1981 Technical Clarification Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-360, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 22, 1982 and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-221 and

transmitted to both Houses of Congress for its review.

Mayor authorized to issue regulations. — Section 401 of D.C. Law 4-150 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

§ 47-2508. Applicability of acts of Congress to national banks in the District of Columbia.

The provisions of all acts of Congress relating to national banks shall apply in the several states, the District of Columbia, the several territories and possessions of the United States, and the Commonwealth of Puerto Rico. (Sept. 8, 1959, 73 Stat. 458, Pub. L. 86-230, § 14; 1973 Ed., § 47-1710; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2509. Declaration and payment of estimated tax.

Every bank, trust company, and building association, and all bonding, title, guaranty and fidelity companies, subject to the provisions of § 501(a) of the Revenue Act of 1975, shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax in such amounts and at such times and under such conditions as the Mayor shall, by rule, prescribe. Such payments shall not be in excess of the amount by which said tax was increased by provisions of this act. (1973 Ed., § 47-1711; Oct. 21, 1975, D.C. Law 1-23, title V, § 501(b), 22 DCR 2091; Nov. 1, 1975, D.C. Law 1-30, § 2, 22 DCR 2545; June 22, 1983, D.C. Law 5-14, § 103, 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to tax on gas, electric lighting, and telephone companies, see § 47-2501.

As to transitional rules for taxing financial institutions, see § 47-2507.

Legislative history of Law 1-30. — Law 1-30, the "District of Columbia Revenue Act of 1971," was introduced in Council and assigned Bill No. 1-156, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 15, 1975 and July 29, 1975, respectively. Signed by the Mayor on August 13, 1975, it was assigned Act No. 1-42 and transmitted to both Houses of Congress for its review.

References in text. — "The Revenue Act of 1975" and "this act," referred to in this section, are references to D.C. Law 1-23, 22 DCR 2091, approved October 21, 1975.

Section 501(a)(1) and 501(a)(2) of the Revenue Act of 1975, are codified as §§ 47-2501 and 47-2502, respectively.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Delegation of authority under Law 5-14. — See Mayor's Order 83-190, July 25, 1983.

§ 47-2510. Personal property tax provisions applicable to financial institutions.

Notwithstanding any other provision of law, financial institutions, as defined in § 47-1801.4, shall be subject to the applicable personal property tax provisions of Chapters 15 and 16 of this title and of Chapter 17 of this title and shall be liable for the payment of taxes on such personal property. This section shall take effect as to taxable property held on July 1, 1981, and on July 1st of

each succeeding year. (Sept. 13, 1980, D.C. Law 3-95, § 401, 27 DCR 3509; July 24, 1982, D.C. Law 4-130, § 4, 29 DCR 2412; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — Law 3-95, the "District of Columbia Financial Institutions Tax Act of 1980," was introduced in Council and assigned Bill No. 3-190, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 3, 1980 and June 17, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-217 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-130. — See note to § 47-2507.

Federal credit unions are not within scope of section. — Federal credit unions are not included in the statutory definition of financial institutions in § 47-1801.4(25), and, therefore, are within the scope of this section. *Georgetown Univ. Employees Fed. Credit Union v. District of Columbia*, App. D.C., 525 A.2d 1014 (1986).

§ 47-2511. Severability.

If any provision of this chapter, or application thereof, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Sept. 13, 1980, D.C. Law 3-95, § 402, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-2510.

§ 47-2512. Savings clause.

(a) *Existing rights and liabilities.* — The repeal or amendment of any provision of this chapter, shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such repeal or amendment, but all rights and liabilities under this chapter shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(b) *Offenses and penalties.* — All offenses committed and penalties incurred, under any provision of law hereby repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been enacted. (Sept. 13, 1980, D.C. Law 3-95, § 403, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-2510.

§ 47-2513. Rules and regulations.

The Mayor of the District of Columbia is authorized to promulgate rules and regulations to carry out the provisions of this chapter. (Sept. 13, 1980, D.C. Law 3-95, § 404, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-2510.

§ 47-2514. Real property tax provisions applicable to financial institutions.

Notwithstanding any other provision of law, financial institutions, as defined in § 47-1801.4 shall be subject to the applicable real property tax provisions of the following laws (1) Chapter 7 of this title, (2) Chapter 6 of this title, (3) Chapter 5 of this title, (4) §§ 47-829 to 47-841, (5) Chapter 13 of this title, (6) Chapter 12 of this title, and (7) Chapter 10 of this title, and shall be liable for the payment of taxes on such real property. (Sept. 13, 1980, D.C. Law 3-95, § 405, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-2510.

§ 47-2515. Effective date.

The provisions of this chapter (relating to repeal of the gross earnings tax applicable to financial institutions) will be effective for financial institutions beginning with the federal taxable year following the 3-year transition period described in § 47-2507. All other provisions of this chapter shall take effect on September 13, 1980. (Sept. 13, 1980, D.C. Law 3-95, § 501, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-95. — See note to § 47-2510.

CHAPTER 26. INSURANCE COMPANIES.

Sec.

47-2601. Definitions.

47-2602. Domicile of insurer organized in foreign country.

47-2603. Licenses; fee; term.

47-2604. Penalty for engaging in business without license or certificate of authority.

47-2605. Prosecutions.

47-2606. Annual statements; filing fee.

47-2607. Revocation of license for failure to file statement.

Sec.

47-2608. Rates on insurance companies; exceptions; marine insurance excluded; payment schedule; revocation of certificate of authority for failure to pay tax.

47-2609. Liability for failure to pay tax.

47-2610. Reciprocity.

47-2611. Exemption of nonprofit relief associations.

§ 47-2601. Definitions.

For the purposes of this chapter, the term:

(1) "Alien" means organized under the laws of any country other than the United States or a territory or insular possession of the United States.

(2) "District" means the District of Columbia.

(3) "Domestic" means organized under the laws of the District of Columbia or under federal legislation.

(4) "Foreign" means organized under the laws of any state of the United States, or of any territory or insular possession of the United States.

(5) "Foreign country" means a country where an insurer, not organized under the laws of the United States, is organized or formally located.

(6) "Mayor" means the Mayor of the District of Columbia.

(7) "Net premium receipts" or "consideration received" means gross premiums or consideration received less the sum of the following:

(A) Premiums received for reinsurance assumed and consideration returned on contracts not taken or cancelled; and

(B) Dividends paid in cash or used by policyholders to pay renewal premiums.

(8) "State" means the Commonwealth of Puerto Rico, a state in the United States of America, or a United States possession or territory other than the District of Columbia. (Aug. 17, 1937, ch. 690, title II, § 1, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-113. — Law 5-113, the "District of Columbia Revenue Act of 1984," was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 12 of Title 2 of the Act of August 17, 1937, as added by § 401 of D.C. Law 5-113, provided that the Mayor shall issue rules to implement the provisions of this chapter pursuant to subchapter I of Chapter 15 of Title 1.

Section 901 of D.C. Law 5-113 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.

§ 47-2602. Domicile of insurer organized in foreign country.

Except for insurers organized under the laws of Canada, the domicile of an insurer organized or formally located in a foreign country shall be the insurer's principal place of business in the United States of America. The domicile of a Canadian insurer shall be the Canadian province where the insurer's headquarters are located. (Aug. 17, 1937, ch. 690, title II, § 2, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; Oct. 5, 1985, D.C. Law 6-42, § 453, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(t), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-113. — See note to § 47-2601.

Legislative history of Law 6-42. — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-237. — Law 8-237, the "Department of Consumer and Reg-

ulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — See notes to § 47-2601.

§ 47-2603. Licenses; fee; term.

On and after the first day of September 1937, every domestic, foreign, or alien company organized as a stock, mutual, reciprocal, Lloyd's fraternal, or any other type of insurance company or association, before issuing contracts of insurance against loss of life or health, or by fire, marine, accident, casualty, fidelity and surety, title guaranty, or other hazard not contrary to public policy, shall obtain from the Commissioner of Insurance and Securities of the District of Columbia an annual license or certificate of authority, upon payment of a fee of \$100 per year or fraction thereof to the District of Columbia and collected by the Commissioner of Insurance and Securities. All licenses for insurance companies who may apply for permission to do business in the District of Columbia shall date from the first of the month in which application is made, and expire on the 30th day of April following. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 1; 1973 Ed., § 47-1801; Feb. 23, 1980, D.C. Law 3-52, § 7, 27 DCR 26; renumbered as § 3 and amended, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; _____, 1997, D.C. Law 11- (Act 11-524), § 10(jj), 44 DCR 1730.)

Cross references. — As to duties of Superintendent of Insurance, see § 35-102.

As to fees for fraternal benefit associations, see § 35-1206.

As to taxation of marine insurance companies, see §§ 35-1408 to 35-1417.

Section references. — This section is referred to in § 47-2608.

Effect of amendments. — D.C. Law 11- (D.C. Act 11-524) substituted "Commissioner of Insurance and Securities" for "Superintendent of Insurance" in the first sentence.

Legislative history of Law 3-52. — Law 3-52, the “District of Columbia Insurance Act Amendments of 1979,” was introduced in Council and assigned Bill No. 3-53, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 20, 1979, and December 4, 1979, respectively. Signed by the Mayor on December 21, 1979, it was assigned Act No. 3-142 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — See note to § 47-2601.

Legislative history of Law 11- (Act 11-524). — Law 11- (Act 11-524), the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11 (Act 11-524) is projected to become law on May 22, 1997.

Mayor authorized to issue rules. — See notes to § 47-2601.

Department of Insurance abolished. — The Department of Insurance, including the Superintendent, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 43, dated June 23, 1953, as amended, established under the direction and control of a Commissioner, a Department of Insurance

headed by a Superintendent. The Order provided for the organization of the Department, abolished the previously existing Department of Insurance, and provided that all functions and positions of the previous Department would be transferred to the new Department of Insurance, including the duties, powers, and authorities of all officers and employees, and that all personnel, property, records and unexpended balances relating to the functions and positions transferred would also be transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Pursuant to the provisions of D.C. Law 11- (Act 11-524), the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities, and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished. Pursuant to the provisions of D.C. Law 11- (Act 11-524), the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished.

Cited in Office of People’s Counsel v. Public Serv. Comm’n, App. D.C., 520 A.2d 677 (1987).

§ 47-2604. Penalty for engaging in business without license or certificate of authority.

Any such company issuing contracts of insurance in the District of Columbia, without first having obtained license or certificate of authority from the Commissioner of Insurance and Securities so to do, shall upon conviction be subject to a fine of \$100 per day for each day it shall engage in business without such license or certificate of authority. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 2; 1973 Ed., § 47-1802; renumbered as § 4, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; Mar. 8, 1991, D.C. Law 8-237, § 2(t), 38 DCR 314; enacted Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; _____, 1997, D.C. Law 11- (Act 11-524), § 10(jj), 44 DCR 1730.)

Effect of amendments. — D.C. Law 11- (D.C. Act 11-524) substituted “Commissioner of Insurance and Securities” for “Superintendent of Insurance” in the first sentence.

Legislative history of Law 5-113. — See note to § 47-2601.

Legislative history of Law 8-237. — See note to § 47-2602.

Legislative history of Law 11- (Act 11-524). — See note to § 47-2603.

Mayor authorized to issue rules. — See notes to § 47-2601.

Department of Insurance abolished. — See note to § 47-2603.

§ 47-2605. Prosecutions.

All prosecutions for violations of this chapter shall be in the Superior Court of the District of Columbia by the Corporation Counsel of the District of Columbia or any of his assistants. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 3; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-1803; renumbered as § 5, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to conduct of criminal prosecutions generally, see § 23-101.

Legislative history of Law 5-113. — See note to § 47-2601.

Mayor authorized to issue rules. — See notes to § 47-2601.

§ 47-2606. Annual statements; filing fee.

Each of such companies shall file an annual statement, in the form prescribed by the Superintendent, before March 1 of each year, of its operations for the year ending December 31 immediately preceding. Such statement shall be verified by oath of the president and secretary or in their absence by 2 other principal officers. The fee for filing said statement shall be \$50 and payment thereof shall be collected by the Superintendent and made payable to the District of Columbia. (Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 4; 1973 Ed., § 47-1804; Feb. 23, 1980, D.C. Law 3-52, § 8, 27 DCR 26; renumbered as § 6, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 3-52. — See note to § 47-2603.

Legislative history of Law 5-113. — See note to § 47-2601.

Mayor authorized to issue rules. — See notes to § 47-2601.

Department of Insurance abolished. — See note to § 47-2603.

Cited in Office of People’s Counsel v. Public Serv. Comm’n, App. D.C., 520 A.2d 677 (1987).

§ 47-2607. Revocation of license for failure to file statement.

If any such company shall fail to file the annual statement herein required, the Commissioner of Insurance and Securities may thereupon revoke its license or certificate of authority to transact business in the District of Columbia. (Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 5; 1973 Ed., § 47-1805; renumbered as § 7, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR

3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; _____, 1997, D.C. Law 11- (Act 11-524), § 10(jj), 44 DCR 1730.)

Effect of amendments. — D.C. Law 11- (D.C. Act 11-524) substituted "Commissioner of Insurance and Securities" for "Superintendent of Insurance."

Legislative history of Law 5-113. — See note to § 47-2601.

Legislative history of Law 11- (Act 11-524). — See note to § 47-2603.

Mayor authorized to issue rules. — See notes to § 47-2601.

Department of Insurance abolished. — See note to § 47-2603.

§ 47-2608. Rates on insurance companies; exceptions; marine insurance excluded; payment schedule; revocation of certificate of authority for failure to pay tax.

(a)(1) All such companies, including companies which issue annuity contracts shall also pay to the District of Columbia, for each calendar year, a sum of money as taxes equal to 2.25% of their policy and membership fees and net premium receipts or consideration received in such calendar year on all insurance and annuity contracts on risks in the District of Columbia. Such tax shall be in lieu of all other taxes except:

(A) Taxes upon real estate; and

(B) Fees and charges provided for by the insurance laws of the District including amendments made to such laws by this chapter.

(2) Net premium receipts or consideration received means gross premiums or consideration received, not including premiums received in connection with a tax exempt "pension business" as defined in section 1012(c)(4)(D) of the Tax Reform Act of 1986 (26 U.S.C. § 833, note), by a corporation referred to in section 1012(c)(4)(B) of the Tax Reform Act of 1986, less the sum of the following:

(A) Premiums received for reinsurance assumed and premiums or consideration returned on policies or contracts cancelled or not taken; and

(B) Dividends paid in cash or used by the policyholders in payment of renewal premiums.

(3) Nothing contained in this section or in § 47-2603 or § 47-2609 shall apply with respect to marine insurance written within the said District and reported, taxed, and licensed under Chapter 14 of Title 35.

(b)(1) The tax imposed by subsection (a) of this section shall, for each calendar year prior to calendar year 1977, be paid before the first day of March of the next succeeding calendar year.

(2) Except as provided in subsection (b)(3) of this section, the tax imposed for calendar year 1977 and for each calendar year thereafter shall be paid in 3 installments on or before the first day of the months of May, July, and September of the calendar year in which the income to be taxed is received. Each installment shall be an amount equal to at least 25% of the total tax liability determined for the preceding calendar year; except that for the installments due on or before the first day of the months of May, July, and September, 1993, each installment shall be an amount equal to at least 28% of the total tax liability for the 1992 calendar year. In accordance with rules

prescribed by the Mayor, each company shall determine its total tax liability for each calendar year and pay the remainder, if any, on or before the first day of March following the close of each calendar year. Overpayments of tax may be refunded to the company or credited to the company's next installment payment, at the election of the company.

(3) The installment payment provision of subsection (b)(2) of this section shall not apply in the case of any company having a tax liability for the preceding calendar year less than \$2,000. In such cases the tax shall be paid on or before the first day of March following the close of the calendar year.

(c) The certificate of authority of any company may be revoked for failure to pay the tax required by this chapter. (Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 6; May 16, 1938, 52 Stat. 358, ch. 223, § 2; 1973 Ed., § 47-1806; Apr. 19, 1977, D.C. Law 1-124, title X, § 1000, 23 DCR 8749; Sept. 23, 1977, D.C. Law 2-19, § 3, 24 DCR 3338; renumbered as § 8, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; July 23, 1992, D.C. Law 9-134, § 111, 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 111, 39 DCR 4895; Mar. 17, 1993, D.C. Law 9-224, § 2, 40 DCR 592; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 35-4714.

Legislative history of Law 1-124. — Law 1-124, the "Revenue Act For Fiscal Year 1978," was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-19. — Law 2-19, the "Act to Provide Deductions for Deed Recordation Taxes and Motor Vehicle Fees and for Accelerated Payment of Taxes, Insurance Premium Receipts," was introduced in Council and assigned Bill No. 2-109, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 17, 1977 and May 31, 1977, respectively. Signed by the Mayor on June 21, 1977, it was assigned Act No. 2-48 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — See note to § 47-2601.

Legislative history of Law 9-134. — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of

1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 9-224. — Law 9-224, the "Premium Receipts Tax Clarification Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-558, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 4, 1993, it was assigned Act No. 9-355 and transmitted to both Houses of Congress for its review. D.C. Law 9-224 became effective on March 17, 1993.

Mayor authorized to issue rules. — See notes to § 47-2601.

Title insurance companies within section. — Title insurance companies whose business consists solely of issuing either certificates of title or title policies to real estate in the District of Columbia and further incidental transactions are "insurance companies" within this section. *Real Estate Title Ins. Co. v. District of Columbia*, 161 F.2d 887 (D.C. Cir. 1947).

Words "gross receipts" are not equivalent to "consideration received." *Suburban Title & Inv. Corp. v. District of Columbia*, 180 F.2d 387 (D.C. Cir. 1950).

Cited in *Office of People's Counsel v. Public Serv. Comm'n*, App. D.C., 520 A.2d 677 (1987).

§ 47-2609. Liability for failure to pay tax.

If any such company shall fail to pay the tax herein required, it shall be liable to the District of Columbia for the amount thereof, and in addition thereof a penalty of 8% per month thereafter until paid. (Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 7; 1973 Ed., § 47-1807; renumbered as § 9, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to failure of insurance companies to pay taxes, see § 35-105.

Section references. — This section is referred to in § 47-2608.

Legislative history of Law 5-113. — See note to § 47-2601.

Mayor authorized to issue rules. — See notes to § 47-2601.

§ 47-2610. Reciprocity.

(a)(1) When a state or foreign country charges domestic companies aggregate taxes and fees which exceed the aggregate taxes and fees that the District charges under the same circumstances, then the Mayor may charge, in retaliation, the same taxes and fees to companies of the state or the foreign country when the companies are within the taxing jurisdiction of the District.

(2) When a state or a foreign country charges fines, deposits, or establishes obligations, or the restrictions which the District establishes under the same circumstances, then the Mayor may establish, in retaliation, the same fines, deposits, obligations, or restrictions for companies of the state or the foreign country when the companies are within the jurisdiction of the District.

(b) Subsection (a) of this section shall not apply to the following:

(1) Personal income taxes;

(2) Ad valorem taxes on real or personal property; and

(3) Special assessments charged by a state in connection with insurance, other than property insurance.

(c) The Mayor shall consider the amount of real and personal property taxes deducted from the taxes charged against a domestic company by a foreign jurisdiction when the Mayor determines the propriety and the extent of the retaliatory charges described in subsection (a) of this section. (Aug. 17, 1937, ch. 690, title II, § 10, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to failure of insurance companies to pay taxes, see § 35-105.

Legislative history of Law 5-113. — See note to § 47-2601.

Mayor authorized to issue rules. — See notes to § 47-2601.

§ 47-2611. Exemption of nonprofit relief associations.

Nothing contained in this chapter shall apply to any relief association, not conducted for profit, composed solely of officers and enlisted men of the United States Army, Navy, or Air Force, or solely of employees of any other branch of the United States government service or solely of employees of the District of Columbia government, or solely of employees of any individual, company, firm, or corporation or to any fraternal organization which issues contracts of

insurance exclusively to its own members. (Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 8; 1973 Ed., § 47-1808; renumbered as § 11, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 42-202.

Legislative history of Law 5-113. — See note to § 47-2601.

Mayor authorized to issue rules. — See notes to § 47-2601.

Word “corporation” refers to private concerns, not governmental agencies. Jordan v. Group Health Ass’n, 107 F.2d 239 (D.C. Cir. 1939).

Group Health Association falls within this section. Jordan v. Group Health Ass’n, 107 F.2d 239 (D.C. Cir. 1939).

Navy Mutual Aid Association is not subject to the tax on insurance companies. Fechteler v. Jordan, 218 F.2d 865 (D.C. Cir. 1955).

CHAPTER 27. PERMITS AND FEES.

Subchapter I. Public Auction Permits.

Sec.

- 47-2701. Permit required.
- 47-2702. Application; fee; required information.
- 47-2703. Personal effects, furniture, personal livestock may be sold without permit.
- 47-2704. Suspension of license for violations.
- 47-2705. Hours restricted for auctions of jewelry or valuables.
- 47-2706. Misrepresenting merchandise.
- 47-2707. Prosecutions.
- 47-2708. Construction.

Subchapter II. Miscellaneous Provisions.

- 47-2711. Riparian permits.
- 47-2712. Electrical fees.
- 47-2713. District of Columbia General Hospital rates.
- 47-2714. District of Columbia Village rates.
- 47-2715. Glenn Dale Hospital rates.

Sec.

- 47-2716. Denial of medical or mental health services for inability to pay prohibited.
- 47-2717. Mayor to adjust medical and mental health service rates.
- 47-2718. Public space permits.

Subchapter IV. Clean Air Compliance Fees.

- 47-2731. Findings.
- 47-2732. Definitions.
- 47-2733. Clean Air Act compliance fee.
- 47-2734. Registration of employment parking spaces.
- 47-2735. Exemptions.
- 47-2736. Rules of construction.
- 47-2737. Special agreements with the federal government.
- 47-2738. Payment.
- 47-2739. Penalties and enforcement.
- 47-2740. Allocation of clean air compliance fee.

Subchapter I. Public Auction Permits.

§ 47-2701. Permit required.

Excepting sales made under authority of law, it shall be unlawful in the District of Columbia for any person, firm, or corporation, either for himself or itself, or for another, or for any firm, or corporation to sell or offer at public auction any stock or stocks of merchandise, in whole or in part, without first obtaining from the Mayor of the District of Columbia a written or printed permit so to do; and the Mayor shall not issue a permit for any such sale or sales until he is satisfied that neither fraud nor deception of any kind is contemplated or will be practiced, and that neither the sale, the reasons therefor nor the goods to be sold have not already been or will not thereafter be fraudulently or falsely advertised or in any wise whatsoever misrepresented. (Sept. 8, 1916, 39 Stat. 846, ch. 473, § 1; 1973 Ed., § 47-2201; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to licensing and supervising auctioneers, see § 47-2808.
As to Council's authority to regulate, modify,

or eliminate license requirements and promulgate regulations, see § 47-2842.

§ 47-2702. Application; fee; required information.

Every such permit shall be issued for a definite period of time not exceeding 12 months from its date of issue, and the date and hour of its expiration shall be stated in the permit, and before such permit shall be issued the applicant therefor shall pay to the District of Columbia, through its Collector of Taxes, such fee as the Mayor may deem sufficient to reimburse the District of

Columbia for the work and expense of issuing the permit and gathering information concerning the applicant and his goods as the Mayor may deem prudent and best for the protection of the public, but which fee shall not exceed the sum of \$150. The application for the said permit shall be by verified petition, stating the name of the applicant, residence, street, and number of the proposed place of selling, and shall set forth in detail the goods to be sold and what statements or representations are to be made or advertised as to the same, and the length of time for which the permit is desired; and, if previously engaged in a like or similar business, to designate all the places where the same was conducted, and shall furnish to the Mayor such further evidence as shall be deemed necessary to establish the truth of the statements made in the said petition. (Sept. 8, 1916, 39 Stat. 846, ch. 473, § 2; 1973 Ed., § 47-2202; Sept. 14, 1976, D.C. Law 1-82, title I, § 106, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-82. — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March

23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

Office of Collector of Taxes abolished. — See note to § 47-401.

§ 47-2703. Personal effects, furniture, personal livestock may be sold without permit.

No permit as herein provided for shall be required for the sale of any wagon, carriage, automobile, mechanics' tools, used farming implements, livestock, including game, poultry (dressed or undressed), vegetables, fruits, melons, berries, flowers, or for the sale of used household furniture and effects when being sold at the residence of the housekeeper selling them. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 3; 1973 Ed., § 47-2203; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2704. Suspension of license for violations.

The Mayor of the District of Columbia is hereby vested with authority to temporarily suspend the operation of the license herein provided for whenever he may believe that this subchapter, or any part thereof, or regulations made in pursuance thereof, are about to be or are being violated, and he shall thereupon forthwith institute the appropriate proceeding in the Superior Court of the District of Columbia in accordance with this subchapter, and in the event that the said violation results in a conviction, then and in that event the license shall be and become null and void, but in the event that the said proceeding shall terminate in favor of the defendant, then and in that event the suspension of said license shall be at an end, and the license shall thereupon be restored and be in full force and effect. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2204; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see Chapter 15 of Title 1.

§ 47-2705. Hours restricted for auctions of jewelry or valuables.

No person as herein provided for shall sell at public auction, from the first day of April until the 30th day of September, both inclusive, between the hours of 7:00 p.m. and 8:00 a.m., nor from the first day of October until the 30th day of March, both inclusive, between the hours of 6:00 p.m. and 8:00 a.m. any jewelry, diamond, or other precious stone, watch, gold and silver ware, gold and silver plated ware, statuary, porcelains, bric-a-brac, or articles of vertu. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 5; 1973 Ed., § 47-2205; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2706. Misrepresenting merchandise.

Any person selling or offering for sale any property under the provisions of this subchapter shall, in describing the same, be truthful with respect to the character, quality, kind, and description of the same and which, for the purpose hereof, shall be considered as warranties, and any breach of the same shall be punishable by prosecution in the Superior Court of the District of Columbia, as hereinbefore set forth. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 6; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2206; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2707. Prosecutions.

All prosecutions under this subchapter shall be in the Superior Court of the District of Columbia upon information by the Corporation Counsel or 1 of his assistants. Any person violating any of the provisions of this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$200 or imprisonment of not more than 60 days or both, in the discretion of the court. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this subchapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 7; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2207; Oct. 5, 1985, D.C. Law 6-42, § 465, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No.

6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed

by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

§ 47-2708. **Construction.**

Nothing in this subchapter shall be construed to excuse or release any person, firm or corporation, or property from the payment of any occupational or property tax, or any other tax imposed or levied by law. Neither shall anything herein be construed to obviate the application of any fraudulent or false advertisement statute of the District of Columbia to any person who may violate the same; nor shall anything herein be construed to prevent any prosecution for fraud, deceit, or larceny by trick; nor to in any way estop or hinder any remedy at law or in equity, or the right to cancel or estop any unconscionable bargain or fraudulent transaction. (Sept. 8, 1916, 39 Stat. 847, ch. 473, § 8; 1973 Ed., § 47-2208; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Subchapter II. Miscellaneous Provisions.

§ 47-2711. **Riparian permits.**

The schedule of fees to be charged by the District of Columbia for the issuance of riparian permits is hereby established and set out as follows:

RIPARIAN PERMITS SCHEDULE

Fees required by the Rules and Regulations for the Government of Riparian Rights and Water Privileges in the District of Columbia.

Fees for permits to fill or dredge, construct, reconstruct or repair any structure shall be as follows:

	<i>Fee</i>
Work costing up to \$500	\$ 9.00
Work costing from \$501 to \$1,000	14.00
Each additional \$1,000 of increased cost	14.00

(b) *Refunds:* A refund of permit fee shall be made as follows:

(1) When no work has been done under authority of permit the fee in excess of the cost of inspection to verify no work having been done, based on \$10 per inspector hour, the cost of any engineering examination time previously devoted to approval of plans, based on \$15 per hour, plus \$14 administrative costs of "issuance and refund", shall be refunded 14.00

(2) When work authorized by permit has been only partially done and when the District is satisfied that no more work will be done under the permit, the fee in excess of the cost of any engineering plans examination based on \$15 per hour, inspections costs based on \$10 per hour, plus \$14 administrative costs of "issuance and refund", shall be refunded 14.00

Provided: That request for refund shall be made within 6 months from date of issuance and the permit and receipt are returned to the Permit Branch.

(c) *Penalty:* The penalty for a permit to abate notice of doing work without a permit shall be 50% of the fee.

(d) *Waiver of permit fees:* No permit fee shall be charged when supported by evidence indicating that the applicant is under contract or subcontract to perform the following:

(1) Work done exclusively for the District of Columbia.

(2) Work done under contract for the District.

(1973 Ed., § 47-2211; Sept. 14, 1976, D.C. Law 1-82, title II, § 201, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-82. — See note to § 47-2702.

§ 47-2712. Electrical fees.

(a) The Mayor of the District of Columbia shall amend from time to time the schedule of fees to be charged by the District of Columbia for the inspection of electrical equipment and for the issuance of permits to perform electrical services. The Mayor shall amend the schedule by rule to provide for fees in amounts as in his judgment will defray the approximate costs of performing inspections and issuing permits.

(b) Until the schedule of fees is amended by the Mayor in accordance with subsection (a) of this section, the schedule of fees to be charged by the District of Columbia for the inspection of electrical equipment and for the issuance of permits to perform electrical services is as follows:

ELECTRICAL FEE SCHEDULE

	<i>Fee</i>
Outlets—each 10	\$ 7.00
Outlet means and includes receptacle, switch and fixture outlet	
GROUP 2. FIXTURES AND LAMP HOLDERS	
Each 10	3.00
GROUP 3. ELECTRICAL DISCHARGE SIGNS	
1st 500 va	12.00
Each additional 500 va	7.00
GROUP 4. HEATING EQUIPMENT	
Baseboard or spaceheaters	
1st 10 KW—per each KW	3.00
Each additional KW	2.00
Unit heaters, furnaces — Motors not included	15.00
Each additional	7.00
Controls only — Each	9.00
For units with motors — Add appropriate motor from Group 6	
GROUP 5. COMMERCIAL HEATING AND COOKING	
Appliances other than Group 4	
1st 1-8 KW	12.00

	<i>Fee</i>
Each additional	7.00
1st-over 8 KW	15.00
Each additional	7.00

GROUP 6. MOTORS AND GENERATORS

Less than $\frac{1}{4}$ H.P.	Apply Group 2
$\frac{1}{4}$ H.P. to 1 H.P.	12.00
Each additional	7.00
Over 1 H.P. to 5 H.P.	19.00
Each additional	7.00
Over 5 H.P. to 10 H.P.	30.00
Each additional	12.00
Over 10 H.P. to 20 H.P.	36.00
Each additional	15.00
Over 20 H.P. to 30 H.P.	47.00
Each additional	22.00
Over 30 H.P. to 50 H.P.	57.00
Each additional	24.00
Over 50 H.P. to 75 H.P.	69.00
Each additional	30.00
Over 75 H.P.	78.00
Each additional	36.00

For installation of more than 1 motor, the initial fee shall be the largest motor fee plus the additional fee for the smaller.

GROUP 7. SERVICE

Piped house connection	7.00
Each additional	3.00
Pole line on private property	7.00
Each additional	3.00
Conductors, including pole	9.00
Each additional	3.00
Service conductors — Each	7.00

GROUP 8. SERVICE AND METER EQUIPMENT

0 to 200 amperes	15.00
Each additional	7.00
201 to 400 amperes	22.00
Each additional	12.00
401 to 800 amperes	42.00
Each additional	22.00
Over 800 amperes	63.00
Each additional	30.00

Fee

Relocation, replacement or original installation, including meter connection facilities. For installation of more than 1 service equipment, the initial fee shall be for the largest service equipment plus the additional fee for the smaller.

GROUP 9. TRANSFORMERS

1 to 10 KVA	12.00
Each additional	7.00
11 to 75 KVA	19.00
Each additional	9.00
76 to 200 KVA	24.00
Each additional	12.00
Vault	63.00
Each additional	30.00

GROUP 10. THEATRES OR OTHER PLACES OF PUBLIC ASSEMBLY: SPOTLIGHTS

Arc	12.00
Each additional	7.00
Incandescent	7.00
Each additional	3.00
Portable or temporary arc	9.00
Each additional	7.00
Portable or temporary incandescent	7.00
Each additional	3.00
Motion picture machine	
Permanent	30.00
Each additional	15.00
Portable	19.00
Each additional	9.00
Slide projector	15.00
Each additional	9.00
Amplifier	12.00
Each additional	7.00
Dimmers (over 1 KW)	9.00
Each additional	7.00
Portable switchboard	12.00
Each additional	7.00
Portable T.V. installation	
1st portable T.V. receiver	11.00
Each additional receiver	5.00
Portable or temporary incandescent lamps (other than spotlights)	
1 to 25 lights	9.00
26 to 50 lights	13.00

	<i>Fee</i>
51 to 100 lights	19.00
Each additional 100 lights	5.00
GROUP 11. TEMPORARY INSTALLATIONS	
Decorations, lawn fetes, etc.	
1 to 25 lights — 1st 90 days	12.00
Each additional 90 days	7.00
26 to 50 lights — 1st 90 days	19.00
Each additional 90 days	9.00
51 to 100 lights — 1st 90 days	24.00
Each additional 90 days	12.00
Each additional 100 lights — 1st 90 days	7.00
Each additional 90 days	3.00
Use of current on wiring, apparatus and fixtures for use pending completion of installation — 1st 90 days	24.00
Each additional 90 days	12.00
Circuses and Carnivals	
1st 50 KW	63.00
Each additional 100 KW	63.00
Exhibitions, etc.	
1st 3,000 sq. ft.	27.00
Each additional 1,000 sq. ft.	15.00
GROUP 12. RADIO AND TELEVISION EQUIPMENT	
Transmitting station — 1st	36.00
Each additional	19.00
Receiving station	
Antenna and ground connection device for receivers — 1st	7.00
Each additional 10	7.00
Centralized speaker station — 1st 10	7.00
Each additional 10	7.00
Centralized receiver amplifier	12.00
Each additional	12.00
Closed circuit television camera — 1st camera	9.00
Each additional camera	7.00
GROUP 13. MISCELLANEOUS	
Arc vapor lamps — 1st	9.00
Each additional	7.00
Battery charges	13.00
Each additional	7.00
Electric ranges (residential)	7.00
Each additional	2.00
Clothes dryer (residential)	7.00
Each additional	2.00
Garbage disposal (residential)	7.00
Each additional	3.00

	<i>Fee</i>
X-Ray machine	12.00
Each additional	7.00
Dishwasher (residential)	7.00
Each additional	3.00
Hot water heater (residential)	7.00
Each additional	3.00
Fire alarm station and bell	Apply Group 1
Electric signs — Incandescent	Apply Group 2
Festoon lighting	Apply Group 2
Air conditioner — Central system	
Not over 5 tons (residential) 1st	30.00
2nd to 25th, each	10.00
Above 25, each	7.00
Rectifier	15.00
Each additional	7.00
Welders	15.00
Each additional	7.00
Minimum fee	7.00
Portable equipment on circuits 20 amperes or less	No Fee
Electric furnaces (residential)	
1st	15.00
2nd	12.00
Over 25, each	7.00
Electric cranes for construction work	67.00
Replacement of feeder conductors:	
Per feeder (old work) 1st	7.00
Each additional	3.00
Panel board replacement	
1st panel board (old work)	7.00
Each additional	3.00
Installation of empty conduits:	
Per floor	7.00
Duplicates — Preliminary and final certificates of performance or correction of records	7.00
Quarterly permits — The fee for quarterly permits to install circuits, fixtures and receptacles shall be in accordance with the work done, in no case less than \$27 payable at the time the permit is issued	27.00
Defect reinspection fee	13.00
When the applicant receives a written notice of defects found during the original inspection and the applicant or his agent reports the defects have been corrected, and upon inspection of the defect, noted originally, it is revealed that the defects have not been full corrected, a charge of \$13 will be made for each inspection	

	<i>Fee</i>
thereafter	13.00

NOTE

Where application is made for a permit to cover an electrical installation, or alterations previously made, for which a permit has not been issued, there shall be a service charge of 50 percent of the regular fee with a minimum \$13 addition to the regular fee. No service charge shall be made for emergency repair work if a permit is applied for at once 13.00

REFUNDS

A refund of permit fees shall be made as follows:

(1) When no work has been done under authority of a permit, the fee in excess of the costs of inspection to verify no work having been done, based on \$13 per inspector hour, the cost of any engineering examination time previously devoted to approval of plans based on \$20 per hour, plus \$19 administrative costs of "issuance and refund", shall be refunded 19.00

(2) When work authorized by permit has been only partially done and when the District is satisfied that no more work will be done under the permit, the fee in excess of the cost of any engineering plans examination based on \$20 per hour, cost of inspections made, based on \$13 per hour, plus \$19 administrative costs of "issuance and refund", shall be refunded 19.00

(3) Provided, that the request for refund shall be made within six months from the date of issuance and the permit and receipt are returned to the Permit Branch.

PENALTY

The penalty for a permit to abate notice of doing work without a permit shall be 50 percent of the fee.

WAIVER OF PERMIT FEES

No permit fee shall be charged when supported by evidence indicating that the applicant is under contract or subcontract to perform the following:

- (1) Work done exclusively for the District of Columbia.
- (2) Work done under contract for the District of Columbia.
- (3) Work done exclusively for agencies of the United States government.

(1973 Ed., § 47-2212; Sept. 14, 1976, D.C. Law 1-82, title III, § 301, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 202(a), 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Mayor's authority to fix certain licensing and registration fees, see § 1-346.

As to increase or decrease of fees authorized in § 1-346, see § 1-347.

Section references. — This section is referred to in § 1-346.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 5-14. — Law

5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was

assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

§ 47-2713. District of Columbia General Hospital rates.

(a) The per diem rates to be charged for inpatient services at the District of Columbia General Hospital shall be as follows:

- | | |
|-----------------------------|-----------|
| (1) Medical | \$215.00. |
| (2) Surgical | 216.00. |
| (3) Pediatrics | 278.00. |
| (4) Obstetrics | 370.00. |
| (5) Crippled children | 232.00. |
| (6) Gynecology | 130.00. |

(b) The rates to be charged for emergency room services, clinic abortion, and hemodialysis treatment services at the District of Columbia General Hospital shall be as follows:

- | | |
|----------------------------------|-----------------------|
| (1) Emergency room | \$53.50 per visit. |
| (2) Clinic abortion | 360.00 per abortion. |
| (3) Hemodialysis treatment | 316.00 per treatment. |

(c) The rates to be charged for mental health, mental retardation clinic, and home psychiatry services rendered to patients shall be as follows:

- | | |
|---|-------------------|
| (1) For mental health services: | |
| (A) Inpatients | \$140.00 per day. |
| (B) Daypatients | 66.50 per day. |
| (C) Outpatients | 43.50 per day. |
| (2) For mental retardation clinic services: | |
| (A) Daypatients | \$55.00 per day. |
| (B) Outpatients | 35.75 per visit. |

- | | |
|---|-------------------------|
| (3) For home psychiatry services: | \$19.00 per home visit. |
|---|-------------------------|

(1973 Ed., § 47-2213; Sept. 14, 1976, D.C. Law 1-82, title IV, § 401, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(a), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2716 and 47-2717.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 2-24. — Law 2-24, the "Health Services Rates Act of 1977," was introduced in Council and assigned Bill

No. 2-118, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 31, 1977 and June 14, 1977, respectively. Signed by the Mayor on July 13, 1977, it was assigned Act No. 2-59 and transmitted to both Houses of Congress for its review.

§ 47-2714. District of Columbia Village rates.

(a) The per diem rate to be charged for skilled care patients at District of Columbia Village shall be \$82.50.

(b) The per diem rate to be charged for intermediate care patients at District of Columbia Village shall be \$56.00. (1973 Ed., § 47-2214; Sept. 14, 1976, D.C.

Law 1-82, title IV, § 402, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(b), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2716 and 47-2717.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 2-24. — See note to § 47-2713.

§ 47-2715. Glenn Dale Hospital rates.

The per diem rate to be charged patients for medical care and service at Glenn Dale Hospital shall be \$75.50. (1973 Ed., § 47-2215; Sept. 14, 1976, D.C. Law 1-82, title IV, § 403, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(c), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2716 and 47-2717.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 2-24. — See note to § 47-2713.

§ 47-2716. Denial of medical or mental health services for inability to pay prohibited.

No person shall be denied the services enumerated in §§ 47-2713 to 47-2716 because of his or her inability to pay for those services. (1973 Ed., § 47-2215a; Sept. 14, 1976, D.C. Law 1-82, title IV, § 404, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(d), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2717.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 2-24. — See note to § 47-2713.

§ 47-2717. Mayor to adjust medical and mental health service rates.

The Mayor of the District of Columbia is hereby authorized to adjust, from time to time, the rates to be charged for the medical care and mental health services specified in §§ 47-2713 to 47-2716 except that the Mayor's authority to adjust the rates to be charged for medical care at the outpatient clinic at District of Columbia General Hospital shall terminate on the date that the D.C. General Hospital Commission holds its first meeting pursuant to the provisions of §§ 32-211 and 32-216(b). Notice of any change in the rates to be charged for the medical care and mental health services specified in §§ 47-2713 to 47-2716 shall be filed with the Council of the District of Columbia at least 30 days prior to their effective date. (1973 Ed., § 47-2215b; Sept. 28, 1977, D.C. Law 2-24, § 3, 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-24. — See note to § 47-2713.

§ 47-2718. Public space permits.

(a) The Mayor of the District of Columbia shall amend from time to time the schedule of fees to be charged by the District of Columbia for the issuance of public space permits for underground excavations, constructing manholes, and connecting sewers, conduits and mains. The Mayor shall amend the schedule by rule to provide for fees in amounts as in his judgment will defray the approximate costs of issuing permits and of performing inspections as may be necessary in connection therewith.

(b) Until the schedule of fees is amended by the Mayor in accordance with subsection (a) of this section, the schedule of fees to be charged by the District of Columbia for the issuance of public space permits for underground excavations, constructing manholes, and connecting sewers, conduits and mains is as follows:

PUBLIC SPACE PERMIT FEE SCHEDULE

UNDERGROUND EXCAVATIONS

	<i>Fee</i>
Fuel oil, etc.	
Fuel oil, gasoline and solvent fill pipes	\$ 69.00
Fuel oil tanks with curb fills, or residential tanks with curb fills	276.00
Nonresidential tanks with curb fills	291.00
Replacement or repair of fill pipes and repair of tanks	69.00
Replacement of tanks	178.00

MANHOLES

(Except transformer), and valves. For 1 house connection and 1 associated necessary manhole when no other work is included in permit. For constructing a single manhole or gas valve without laying conduit or main. For rebuilding a manhole, including any change in the size, shape, depth, or location of conduit made necessary by the work on the manhole. If a manhole is reduced in size, the conduit may be extended to a new wall, or altered slightly in location or depth to conform to the new manhole location without additional charge

42.00.

SEWER CONNECTIONS

All sewer connections except those to trunk sewers, when part of another job	24.00.
Sewer connections to trunk sewers, when part of another job	69.00.
All sewer connections except those to trunk sewers, when not included with other work	39.00.
Sewer connections to trunk sewers, when not included with other work	85.00.

CONDUIT OR MAIN

Conduit and manholes, or main and valves	85.00.
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(1973 Ed., § 47-2216; Sept. 14, 1976, D.C. Law 1-82, title VI, § 601, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 202(b), 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Mayor's authority to fix certain licensing and registration fees, see § 1-346.

As to increase or decrease of fees authorized in § 1-346, see § 1-347.

Section references. — This section is referred to in § 1-346.

Legislative history of Law 1-82. — See note to § 47-2702.

Legislative history of Law 5-14. — See note to § 47-2712.

Mayor authorized to issue rules. — Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Subchapter IV. Clean Air Compliance Fees.

§ 47-2731. Findings.

The Council of the District of Columbia finds that:

(1) Air pollution impairs the health and welfare of the citizens of the District of Columbia;

(2) Single-occupant automobile traffic is a substantial source of this pollution and the use of single-occupant automobiles for home-to-work travel has been increasing according to data from the Council of Governments;

(3) Despite the general availability of public transit and car pools, many individuals drive to work because free or subsidized parking is available;

(4) Pursuant to the federal Clean Air Act, the District of Columbia is a serious non attainment jurisdiction and the government of the District of Columbia is required to reduce, eliminate, and control sources of air pollution; and

(5) By requiring payment from employment parking that is not subject to the parking sales and use tax and by allocating the revenues to the transit component of the District of Columbia's Clean Air Regulatory Program the District of Columbia will simultaneously discourage the use of single-occupancy vehicles for home-to-work travel while encouraging the use of car pools and transit, thereby reducing air pollution in compliance with requirements under the Clean Air Act. (Mar. 21, 1995, D.C. Law 10-242, § 2, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — Law 10-242, the "Clean Air Compliance Fee Act of 1994," was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

References in text. — The federal Clean

Air Act, referred to in (4) and (5), is codified at 42 U.S.C. §§ 1857 et seq., 7401 et seq., 7501 et seq., and 7601 et seq.

Mayor authorized to issue rules. — Section 12 of D.C. Law 10-242 provided that pursuant to subchapter I of Chapter 15 of Title 1, the Mayor is authorized to issue any rules that may be necessary to implement the provisions of the act. Additionally Council requested that the Mayor amend the District of Columbia State Implementation Plan to ensure that the District receives credit for reductions in volatile organic compounds and nitrogen oxides, in ful-

fillment of the District's federally mandated requirement to reduce ozone creating pollutants.

§ 47-2732. Definitions.

For the purposes of this subchapter, the term:

(1) "Employment parking" means the use of a parking space by a person, including owners, partners, employers, proprietors, employees, and independent contractors, to park to have access to employment, in association with their home-to-work travel.

(2) "Employment parking space" means a parking space, whether or not the parking space is identified or reserved for employment parking, in which employment parking by a motor vehicle occurs more than 2 days per week. (Mar. 21, 1995, D.C. Law 10-242, § 3, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See note to § 47-2731.

§ 47-2733. Clean Air Act compliance fee.

(a) Pursuant to the federal Clean Air Act, which requires nonattainment jurisdictions such as the District of Columbia to reduce emissions of volatile organic compounds and nitrogen oxides to meet federal ambient air quality standards, there is hereby levied a fee on real property in the District of Columbia at a rate of \$20 per month per employment parking space for which sales and use tax for the service of parking is not collected pursuant to § 47-2002(1) or § 47-2202(1).

(b) Owners of real property subject to the fee imposed by subsection (a) of this section may seek reimbursement of the fee from the users of employment parking spaces. (Mar. 21, 1995, D.C. Law 10-242, § 4, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2735 and 47-2738.

Legislative history of Law 10-242. — See note to § 47-2731.

References in text. — The federal Clean Air Act, referred to in (a), is codified at 42 U.S.C. §§ 1857 et seq., 7401 et seq., 7501 et seq., and 7601 et seq.

§ 47-2734. Registration of employment parking spaces.

(a) Owners of real property in the District of Columbia shall register employment parking spaces on their property or on public space over which they control access in accordance with procedures established by the Mayor.

(b)(1) The Mayor may require persons referred to in subsection (a) of this section to supply the following information:

(A) The total number of parking spaces owned or controlled;

(B) The total number of employment parking spaces; and

(C) The total number of employment parking spaces for which sales and use tax for the service of parking is not collected pursuant to § 47-2002(1) or § 47-2202(1).

(2) The Mayor may establish procedures to require persons referred to in subsection (a) of this section to produce or maintain records.

(c) Registration shall occur semiannually. (Mar. 21, 1995, D.C. Law 10-242, § 5, 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 56(a), 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2735.

Effect of amendments. — D.C. Law 11-110 validated a previously made substitution of “parking” for “parkings” in (b)(1)(B).

Legislative history of Law 10-242. — See note to § 47-2731.

Legislative history of Law 11-110. — Legislative history of Law 11-110, the “Technical Amendments Act of 1996,” was introduced in

Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

§ 47-2735. Exemptions.

The following shall be exempt from the Clean Air Act compliance fee established in § 47-2733 and the registration requirement established by § 47-2734:

(1) Employment parking spaces used by members of the Senate unless the President Pro Tempore of the Senate notifies the Mayor, in writing, that the members of the Senate shall be subject to the fee;

(2) Employment parking spaces used by members of the House of Representatives unless the Speaker of the House of Representatives notifies the Mayor, in writing, that the members of the House of Representatives shall be subject to the fee;

(3) Employment parking spaces owned or controlled by the Washington Metropolitan Area Transit Authority and used by its patrons to obtain access to the transit system;

(4) Employment parking spaces regulated by meters owned by the District of Columbia;

(5) Employment parking spaces owned or controlled by foreign governments and used for legation purposes; and

(6) Real property containing not more than 1 employment parking space. (Mar. 21, 1995, D.C. Law 10-242, § 6, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See note to § 47-2731.

References in text. — The “Clean Air Act,” referred to in the introductory language is

codified as 42 U.S.C. §§ 1587 et seq., 7401 et seq., 7501 et seq., and 7601 et seq.

§ 47-2736. Rules of construction.

Nothing in this subchapter shall be construed to impede upon the President’s discretion under § 118 of the Clean Air Act (42 U.S.C. § 7418). (Mar. 21, 1995, D.C. Law 10-242, § 7, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See federal Clean Air Act, referred to in this section, note to § 47-2731. is codified at 42 U.S.C. § 7418.

References in text. — Section 118 of the

§ 47-2737. Special agreements with the federal government.

The Mayor is authorized to enter into agreements with the legislative, judicial, and executive branches of the federal government regarding compliance and enforcement where issues of national security would otherwise preclude enforcement of this subchapter. (Mar. 21, 1995, D.C. Law 10-242, § 8, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See note to § 47-2731.

§ 47-2738. Payment.

The fee established in § 47-2733 shall be due and payable semiannually, as prescribed by the Mayor. (Mar. 21, 1995, D.C. Law 10-242, § 9, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See note to § 47-2731.

§ 47-2739. Penalties and enforcement.

(a) Failure to register an employment parking space shall subject the property to a penalty of \$240 per employment parking space per 6-month registration period.

(b) If the fee is not paid within the time prescribed by the Mayor, there shall be added to the fee a penalty of 10% of the unpaid amount plus interest of 1% per month or portion of a month until the payment is made. The amount of the unpaid fee plus any penalties and interest due shall constitute a lien against the property from the time it is due and payable, having priority over other liens, secured or otherwise, and shall also constitute a personal debt of the real property owner.

(c) The Mayor, for purposes of determining the total number of employment parking spaces owned or controlled by an owner of real property and for determining the amount of fees due from a real property owner, shall have authority to require a property owner to provide and maintain books and records, may examine any relevant books, papers, records, or memoranda of any person that bear upon the matters required to be included in the registration and may summon any person to appear and produce books, records, papers, or memoranda that bear upon the matters to be included in the registration and give testimony or answer interrogatories under oath.

(1) The Mayor may administer the oath to any person summoned to give testimony or answer interrogatories. The summons may be served by any member of the Metropolitan Police Department.

(2) If any person who was personally summoned neglects or refuses to obey the summons, the Mayor may report the fact to the Superior Court of the

District of Columbia ("Court") and the Court may compel obedience to the summons to the same extent that a witness may be compelled to obey a subpoena of that Court.

(d) The Mayor may enforce the provisions of this subchapter pursuant to § 6-905 against any real property owner who produces or maintains false records, or who fails to pay the fee or maintain and produce records as required by the Mayor authorized under this subchapter. (Mar. 21, 1995, D.C. Law 10-242, § 10, 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 56(b), 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-110, in (d), validated a previously made correction to D.C. Law 10-242, which enacted this section.

Legislative history of Law 10-242. — See note to § 47-2731.

Legislative history of Law 11-110. — See note to § 47-2734.

§ 47-2740. Allocation of clean air compliance fee.

All fees, interest, penalties, and other charges collected pursuant to this subchapter shall be used to defray the cost of the transit component of the District of Columbia's Clean Air Regulatory Program. (Mar. 21, 1995, D.C. Law 10-242, § 11, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-242. — See note to § 47-2731.

CHAPTER 27A. SPECIAL PUBLIC SAFETY FEE.

Sec.

47-2751. Definitions.

47-2752. Special public safety fee.

Sec.

47-2753. Enforcement.

§ 47-2751. Definitions.

For the purposes of this chapter, the term:

(1) "District gross receipts" means all income, derived from any activity whatsoever from sources within the District, whether compensated in the District or not, prior to the deduction of any expense whatsoever connected with the production of such income, except that, beginning with the fee that is required by this title to be paid in fiscal year 1996 and thereafter, the calculation of such income shall not include the collection of federal or local taxes on motor vehicle fuel.

(2) "Feepayer" means any person, fiduciary, partnership, unincorporated business, association, corporation, or any other entity subject to:

(A) Subchapter VII of Chapter 18 of this title;

(B) Subchapter VIII of Chapter 18 of this title; or

(C) The provisions of Chapter 1 of Title 46, except any employer in the employer's capacity as a householder as distinguished from an employer in the pursuit of a trade, occupation, profession, enterprise, or vocation. (June 14, 1994, D.C. Law 10-128, § 301, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(a), 41 DCR 5357; Sept. 6, 1995, D.C. Law 11-33, § 2(a), 42 DCR 4038; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-33 added "except that ... on motor vehicle fuel" at the end of (1).

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 10-189. — Law 10-189, the "Arena Tax Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-711, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-315 and transmitted to both Houses of

Congress for its review. D.C. Law 10-189 became effective on September 28, 1994.

Legislative history of Law 11-33. — Law 11-33, the "Arena Tax Payment and Use Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-214, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 11, 1995, and July 25, 1995, respectively. Signed by the Mayor on July 25, 1995, it was assigned Act No. 11-115 and transmitted to both Houses of Congress for its review. D.C. Law 11-33 became effective on September 6, 1995.

Mayor authorized to issue rules. — Section 304 of D.C. Law 10-128, as amended by § 2(d) of D.C. Law 10-189, the Arena Tax Amendment Act of 1994, effective September 28, 1994, provided that the Mayor, pursuant to Chapter 15 of Title 1, shall issue the rules necessary to implement and administer the provisions of this chapter.

Limitations on borrowing associated with arena development and construction costs. — For provisions regarding limitation on borrowing associated with arena development and construction costs, see § 1303 of D.C. Law 11-98, which is codified as § 47-398.5.

Section 4 of D.C. Law 11-86 provided for a

temporary limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena.

Section 6(b) of D.C. Law 11-86 provided that the act shall expire after 225 days of its having taken effect.

For temporary addition of provisions placing a limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena, see

§ 4 of the Real Property Tax Rates for Tax Year 1996 Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-183, January 22, 1996, 43 DCR 376) and § 47-398.5.

For a temporary limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena, see § 1303 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

§ 47-2752. Special public safety fee.

(a) On or before July 15, 1994, each feepayer shall remit to the Mayor a special public safety fee which shall be based upon the annual District gross receipts of a feepayer for the feepayer's preceding fiscal year.

(a-1)(1) For the fiscal year beginning October 1, 1994, and each fiscal year thereafter until the requirements of paragraph (3) of this subsection have been met, each feepayer shall remit to the Mayor, on or before June 15, a fee that shall be based upon the annual District gross receipts of a feepayer for the feepayer's preceding tax year and computed according to the fee schedule provided in subsection (b) of this section.

(2)(A) For purposes of this subsection, a feepayer that is exempt from taxation pursuant to § 47-1802.1 shall not be subject to the fee unless, as provided under § 47-1802.1 the feepayer has unrelated business income.

(B) If such feepayer exempt from taxation has unrelated business income, the feepayer shall remit to the Mayor the fee based upon the feepayer's annual District gross receipts that were associated with the feepayer's unrelated business income for the feepayer's preceding fiscal year.

(3) Except as provided in paragraph (4) of this subsection, the Mayor shall collect the fee that shall be remitted pursuant to paragraph (1) of this subsection as agent on behalf of the Redevelopment Land Agency or such other District government agency or instrumentality designated by the Mayor and shall transfer the fee to the Redevelopment Land Agency or such other District government agency or instrumentality designated by the Mayor, to be used as follows:

(A) As a first priority, to finance the reimbursement of any fund of the General Fund of the District government, including, but not limited to, the Rainy Day Fund established in Fiscal Year 1995, which has been the source of any loan, reprogramming, or transfer of funds to any District government agency or instrumentality for reasonable, necessary, and verified predevelopment and developments costs that have been borne by such District agency or instrumentality for a downtown sports and entertainment arena;

(B) To finance the reimbursement of any District government agency or instrumentality for any and all reasonable, necessary, and verified predevelopment and development costs that are borne by such District government agency or instrumentality for a downtown sports and entertainment arena;

(C) To finance the demolition of buildings located on the future site of the downtown sports and entertainment arena and the relocation and housing of District employees from those buildings;

(D) To finance the acquisition of real property that will serve as the site for a downtown sports and entertainment arena; and

(E) To finance any other costs of the District government associated with the development of a downtown sports and entertainment arena.

(4)(A) The Redevelopment Land Agency, or such other District government agency or instrumentality which has been designated by the Mayor and about which the Mayor shall provide written notice to the Council prior to such designation, is authorized to be the agency which may pledge and create a perfected security interest in the fee that is remitted pursuant to paragraph (1) of this subsection for debt service payment on a term loan or other financing mechanism that is used for the purposes set forth in paragraph (3) of this subsection; provided, that such borrowing or other financing is consistent with the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 777; D.C. Code § 1-201 passim), and the laws of the District of Columbia.

(B) The Mayor shall provide the Council with the following information associated with the downtown sports and entertainment arena:

(i) A copy of any term sheet, loan commitment, and any other obligation executed by the Redevelopment Land Agency or any District government agency or instrumentality to finance the District government's costs associated with the development of a downtown sports and entertainment arena;

(ii) A copy of each contract executed by the Redevelopment Land Agency, or any District government agency or instrumentality, for goods or services associated with the development of a downtown sports and entertainment arena; and

(iii) On or before July 1, 1995, and every 6 months thereafter, a biannual report which provides an accounting and itemization of all financial obligations and expenditures of the District government, and all revenues generated to the District government, associated with the development of a downtown sports and entertainment arena.

(b) Except as provided in subsection (c) of this section, the amount of the fee shall be computed according to the following fee schedule:

(1) Each feepayer with annual District gross receipts of \$0 to \$200,000 shall pay \$25.00;

(2) Each feepayer with annual District gross receipts of \$200,001 to \$500,000 shall pay \$50;

(3) Each feepayer with annual District gross receipts of \$500,001 to \$1 million shall pay \$100;

(4) Each feepayer with annual District gross receipts of \$1,000,001 to \$3 million shall pay \$825;

(5) Each feepayer with annual District gross receipts of \$3,000,001 to \$10 million shall pay \$2,500;

(6) Each feepayer with annual District gross receipts of \$10,000,001 to \$15 million shall pay \$5,000; and

(7) Each feepayer with annual District gross receipts of over \$15 million shall pay \$8,400.

(c) On or before December 1 of each year, the Mayor shall certify to the Council the amount of revenue received by the District from imposition of the fee during the immediately preceding fiscal year and provide an estimate of the amount of revenue expected to be collected from the fee in the then current fiscal year. If the amount estimated to be collected in the then current fiscal year is less than \$9 million, the Mayor shall increase the rate of the fee to provide that the estimated revenue in the then current fiscal year is not greater than \$9 million. The Mayor shall notify the Council and fee payers of any new rates in the fee. (June 14, 1994, D.C. Law 10-128, § 302, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(b), 41 DCR 5357; Sept. 6, 1995, D.C. Law 11-32, § 2, 42 DCR 3246; Sept. 6, 1995, D.C. Law 11-33, § 2(b), 42 DCR 4038; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-398.1 and 47-398.2.

Effect of amendments. — D.C. Law 11-33, in (a-1), rewrote (1) and (3), and inserted (4); in the introductory language of (b), substituted “Except as provided in subsection (c) of this section, the amount of the fee” for “The amount of the special public safety fee”; and added (c).

Temporary amendment of section. — D.C. Law 11-32 rewrote (a-1); substituted “Except as provided in subsection (c) of this section, the amount of the fee” for “The amount of the special public safety fee” in the introductory language of (b); and added (c).

Section 4(b) of D.C. Law 11-32 provided that the act shall expire on the 225th day of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Arena Tax Payment Emergency Amendment Act of 1995 (D.C. Act 11-57, May 18, 1995, 42 DCR 2571) and § 2(b) of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

Limitation on borrowing for arena development and construction costs. — For temporary provisions regarding the limitation on the amount of borrowing for arena development and construction cost, including, but not limited to, land acquisition, construction, predevelopment, off-site infrastructure, and financing for capital interest and principal, to be paid from the proceeds of the arena tax, see § 4 of the Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, Oct. 26, 1995, 42 DCR 6054).

Legislative history of Law 10-189. — See note to § 47-2751.

Legislative history of Law 10-128. — See note to § 47-2751.

Legislative history of Law 11-32. — Law 11-32, the “Arena Tax Payment Temporary Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-213, which

was referred to the Committee on Council. The Bill was adopted on first and second readings on May 4, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-64 and transmitted to both Houses of Congress for its review. D.C. Law 11-32 became effective on September 6, 1995.

Legislative history of Law 11-33. — See note to § 47-2751.

Application of Law — Section 3 of D.C. Law 11-32 amended the applicability provision of D.C. Law 10-189 by inserting “financial” between “adverse” and “impact” in the first paragraph.

Section 4(b) of D.C. Law 11-32 provided that the act shall expire on the 225th day of its having taken effect.

For temporary amendment of the applicability provision of D.C. Law 10-189, see § 3 of the Arena Tax Payment Emergency Amendment Act of 1995 (D.C. Act 11-57, May 18, 1995, 42 DCR 2571) and § 3 of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

Revenues as security for arena construction borrowing. — For provisions permitting certain District revenues to be pledged as security for borrowing for preconstruction activities relating to Gallery Place Sports Arena, see § 47-398.2 as enacted by Pub. L. 104-28, § 203, 109 Stat. 269.

Waiver of Congressional review. — For provisions waiving Congressional review of the Arena Tax Payment and Use Amendment Act of 1995, see § 301 of Pub. Law 104-28, 109 Stat. 270.

Exclusive Development Rights Agreement for the Downtown Arena Resolution of 1995. — Pursuant to Resolution 11-11, effective February 7, 1995, the Council approved the exclusive development rights agreement for the development and construction of a downtown arena.

§ 47-2753. Enforcement.

Any feepayer who fails to file a return for or pay the fee due as required by § 47-2752 shall be subject to the same enforcement provisions and administrative provisions applicable to the fee as provided under Chapter 18 of this title. (June 14, 1994, D.C. Law 10-128, § 303, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(c), 41 DCR 5357; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 10-128. — See note to § 47-2751.

Legislative history of Law 10-189. — See note to § 47-2751.

CHAPTER 28. GENERAL LICENSE LAW.

Subchapter I. General Provisions.

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| <p>Sec.</p> <p>47-2801. Licenses for business or profession; application; transfer of license; signing and sealing.</p> <p>47-2802. Compliance with fire escape laws and regulations required for license.</p> <p>47-2803. Revocation of theater license for failure to comply with public decency regulations.</p> <p>47-2804. Separate license for each business, trade, or profession by same person; place of business restricted to that designated in license; operation under license by others prohibited.</p> <p>47-2805. Establishment of licensing periods by Mayor; prorating for late application.</p> <p>47-2806. Licenses to be posted on premises; exhibition to police.</p> <p>47-2807. Construction and definition of terms.</p> <p>47-2808. Auctioneers; temporary licenses; penalty for failure to account.</p> <p>47-2809. Barbershops and beauty parlors.</p> <p>47-2810. Conventions of national associations of hairdressers or cosmetologists exempted.</p> <p>47-2811. Massage establishments; Turkish, Russian, or medicated baths.</p> <p>47-2812. Public baths.</p> <p>47-2813. Keeping or storing of moving picture films.</p> <p>47-2814. Gasoline, kerosene, oils, fireworks, and explosives.</p> <p>47-2815. Pyroxylin.</p> <p>47-2816. Abattoirs or slaughterhouses.</p> <p>47-2817. Laundries; dry cleaning and dyeing establishments.</p> <p>47-2818. Mattress manufacture, renovation, storage, or sale; "mattress" defined.</p> <p>47-2819. Slot machines.</p> <p>47-2820. Theaters, moving pictures, skating rinks, dances, exhibitions, lectures, entertainments; assignment of police and firemen and additional fees based thereon; hours minors are prohibited on premises.</p> <p>47-2821. Bowling alleys; billiard and pool tables; games.</p> <p>47-2822. Shooting galleries.</p> <p>47-2823. Baseball, football, and athletic exhibitions; assignment of police and firemen; amusement parks.</p> <p>47-2824. Swimming pools.</p> <p>47-2825. Circuses.</p> <p>47-2826. Special events.</p> | <p>Sec.</p> <p>47-2827. Commission merchants in food; bakeries; bottling, candy-manufacturing, and ice cream manufacturers; groceries; markets; delicatessens; restaurants; private clubs; wholesale fish dealers; dairies.</p> <p>47-2828. Classification of buildings containing living quarters for licenses; fees; buildings exempt from license requirement.</p> <p>47-2829. Vehicles for hire; identification tags on vehicles; vehicles for school children; ambulances, private vehicles for funeral purposes; issuance of licenses; payment of fees.</p> <p>47-2830. Rental or leasing of motor vehicle without driver.</p> <p>47-2831. Vehicles hauling goods from public space.</p> <p>47-2832. Repairing of motor vehicles.</p> <p>47-2833. Livery stables.</p> <p>47-2834. Sales on streets or public places.</p> <p>47-2835. Solicitors.</p> <p>47-2836. Guides.</p> <p>47-2837. Secondhand dealers; classification; licensing; stolen property.</p> <p>47-2838. Dealers in dangerous weapons.</p> <p>47-2839. Private detectives; "detective" defined; regulations.</p> <p>47-2840. Fortune-telling.</p> <p>47-2841. Exposing persons or animals as targets prohibited.</p> <p>47-2842. Council of the District of Columbia may regulate, modify, or eliminate license requirements.</p> <p>47-2843. [Repealed].</p> <p>47-2844. Regulations; suspension or revocation of licenses; bonding of licensees authorized to collect moneys; exemptions.</p> <p>47-2845. Prosecutions.</p> <p>47-2846. Penalties.</p> <p>47-2847. Saving clause.</p> <p>47-2848. Severability.</p> <p>47-2849. Refund of erroneously-paid fees.</p> |
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Subchapter II. Clean Hands Before Receiving a License or Permit.

- 47-2861. Definitions.
- 47-2862. Prohibition against issuance of license or permit.
- 47-2863. Self-certification and enforcement.
- 47-2864. Penalties.
- 47-2865. Remedies.
- 47-2866. Enhanced enforcement.

Cross references. — As to certification and registration of accountants and accounting firms, see §§ 2-104 to 2-113.

Subchapter I. General Provisions.

§ 47-2801. Licenses for business or profession; application; transfer of license; signing and sealing.

No person shall engage in or carry on any business, trade, profession, or calling in the District of Columbia for which a license fee or tax is imposed by the terms of this chapter without having first obtained a license so to do. Applications for licenses shall be made to the Mayor of the District of Columbia or his designated agent in accordance with the provisions of the Act of Congress, approved March 3, 1917, and no license shall be granted until payment for the same shall have been made. Every license shall specify by name the person, firm, or corporation to which it shall be issued, the business, trade, profession, or calling for which it is granted, and the location at which such business, trade, profession, or calling is to be carried on. Licenses granted under the terms of this chapter may be assigned or transferred on application upon the conditions applicable to granting the original licenses, and the Mayor of the District of Columbia or his designated agent shall issue a certificate of such assignment or transfer upon the payment to the District of Columbia of a fee of \$1 therefor. All licenses and transfers issued or granted shall be signed by the Mayor of the District of Columbia or his designated agent and impressed with a seal to be adopted by the Council of the District of Columbia. (July 1, 1902, 32 Stat. 622, ch. 1352, § 7, par. 1; July 1, 1932, 47 Stat. 550, ch. 366; 1973 Ed., § 47-2301; Apr. 30, 1988, D.C. Law 7-104, § 43(a), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to police powers generally, see § 1-319.

As to power of Council over licenses, see §§ 47-2842 and 47-2844.

As to refund of fees when license refused, see § 47-2849.

Section references. — This section is referred to in §§ 1-349, 1-1142, and 1-1149.

Legislative history of Law 7-104. — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the

Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

References in text. — The Act of Congress, approved March 3, 1917, referred to in the second sentence of this section, means 39 Stat. 1006, ch. 160, approved March 3, 1917.

Cited in Associated Taxicab Operators, Inc. v. Hayes, 240 F.2d 638 (D.C. Cir. 1957); **Curry v. Dunbar House, Inc.**, App. D.C., 362 A.2d 686 (1976); **Hsu v. Thomas**, App. D.C., 387 A.2d 588 (1978); **Dunham v. District of Columbia**, App. D.C., 442 A.2d 121 (1982); **J. Frog, Ltd. v. Fleming**, App. D.C., 598 A.2d 735 (1991).

§ 47-2802. Compliance with fire escape laws and regulations required for license.

No license shall be issued to any person for the operation of a business in any building or part thereof containing living or lodging quarters of any description required to be licensed under authority of this act, nor for any place of public

assembly required to be licensed as hereinafter provided, nor for any other building or place mentioned in §§ 5-518 to 5-524 required to be licensed as hereinafter provided or required to be licensed in any other act of Congress, until the Director of the Department of Licenses, Investigation, and Inspections, the Fire Chief, and any other official of the District of Columbia who shall be designated by the Mayor of the District of Columbia, have certified in writing to the Mayor of the District of Columbia or his designated agent that the applicant for license has, as to such building or place, complied with all laws enacted and regulations made and promulgated for the protection of life and property. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 2; July 1, 1932, 47 Stat. 550, ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 1; 1973 Ed., § 47-2302; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to withholding licenses for failure to comply with fire safety regulations for buildings, see § 5-508.

As to inspection fees for business required to have annual license, see § 5-516.

Section references. — This section is referred to in § 1-349.

References in text. — “This act”, referred to in the first sentence of this section, means 32 Stat. 622, ch. 1352, approved July 1, 1902.

Department of Inspections abolished. — The Department of Inspections was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 55 of the Board of Commissioners, dated June 30, 1953, and amended August 13, 1953, and December 17, 1953, established under the direction and control of a Commissioner, a Department of Licenses and Inspections headed by a Director. The Order set out the purpose, organization, and functions of the new department. The Order provided that all of the functions and positions of the following named organizations were transferred to the new Department of Licenses and Inspections: The Department of Inspections including the Engineering Section, the Building Inspection Section, the Electrical Section, the Elevator Inspection Section, the Fire Safety Inspection, the Plumbing Inspection Section, the Smoke and Boiler Inspection Section, and the Administrative Section, and similarly the Department of Weights, Measures and Markets, the License Bureau, the License Board, the License Committee, the Board of Special Appeals, the Board for the Condemnation of Dangerous and Unsafe Buildings, and the Central Permit Bureau. The Order provided that in accordance with the provisions of Reorganization Plan No. 5 of 1952, the named organizations were abolished. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan

No. 3 of 1967. Functions vested in the Department of Licenses and Inspection by Reorganization Order No. 55 were transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order No. 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Office of Chief Engineer abolished. — The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated “Deputy Fire Chief,” and the Battalion Chief Engineer was designated “Battalion Fire Chief” by Reorganization Order No. 6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and regulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

Consent to inspection by license applicant. — The owner of a multiple dwelling structure, by applying for license to operate building as apartment house, consented to inspection of premises required by this section, and entry into building without warrant did not violate the Fourth Amendment right. *John D. Neumann Properties, Inc. v. District of Columbia, Bd. of Appeals & Review*, App. D.C., 268 A.2d 605 (1970).

In applying for a housing business license, applicant had effectively consented to inspection of his entire premises for compliance with all applicable provisions of the Housing Regu-

lations, including both the licensing regulations and the Housing Code. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 421 A.2d 27 (1980), cert. denied, 450 U.S. 921, 101 S. Ct. 1369, 67 L. Ed. 2d 348 (1981).

Cited in *Phillips v. Capital Inv. & Guar. Co.*, App. D.C., 32 A.2d 249 (1942).

§ 47-2803. Revocation of theater license for failure to comply with public decency regulations.

Any license issued by the Mayor of the District of Columbia or his designated agent to the proprietor of a theater or other public place of amusement may be terminated by the Mayor whenever it shall appear to him that after due notice the person holding such license shall have failed to comply with such regulations as may be prescribed by the Council of the District of Columbia for the public decency. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 3; July 1, 1932, 47 Stat. 551, ch. 366; 1973 Ed., § 47-2303; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see Chapter 15 of Title 1.

Section references. — This section is referred to in § 1-349.

§ 47-2804. Separate license for each business, trade, or profession by same person; place of business restricted to that designated in license; operation under license by others prohibited.

When more than one business, trade, profession, or calling for which a license is prescribed in this chapter shall be carried on by the same person, the license fee or tax shall be paid for each such business, trade, profession, or calling, except where otherwise specifically provided in this chapter; provided, that licenses issued under any of the provisions of this chapter shall be good only for the location designated thereon, except in the case of licenses issued under this chapter for businesses and callings which in their nature are carried on at large and not at a fixed place of business, and no license shall be issued for more than 1 place of business, profession, or calling, without the payment of a separate fee or tax for each, and if a business is conducted in more than 1 building, a separate license shall be required for the business in each building; provided further, that no person holding a license under the terms of this chapter shall willfully suffer or allow any other person chargeable with a separate license to operate under his license. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 4; July 1, 1932, 47 Stat. 551, ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 2; 1973 Ed., § 47-2304; Apr. 30, 1988, D.C. Law 7-104, § 43(b), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 7-104. — See note to § 47-2801.

§ 47-2805. Establishment of licensing periods by Mayor; prorating for late application.

The Mayor of the District of Columbia is authorized to fix and change from time to time the period for which any license authorized under this act may be issued. Licenses issued at any time after the beginning of the license years shall date from the first day of the month in which the license was issued and end on the last day of the license year above prescribed, and payment shall be made of the proportionate amount of the annual license fee or tax; provided, that where the license fee is \$3 or less the fee shall not be prorated; and provided further, that no fee or tax shall be prorated to an amount less than \$3. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 5; July 1, 1932, 47 Stat. 551, ch. 366; 1973 Ed., § 47-2305; Oct. 26, 1977, D.C. Law 2-27, § 3, 24 DCR 3720; Apr. 18, 1978, D.C. Law 2-72, § 3, 24 DCR 7065; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to theater license, see § 47-2820.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 2-27. — Law 2-27, the "Variable Licensing Periods Act of 1977," was introduced in Council and assigned Bill No. 2-126, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 28, 1977 and July 12, 1977, respectively. Signed by the Mayor on August 1, 1977, it was assigned Act No. 2-61 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-72. — Law 2-72, the "Licensing Periods Act of 1977," was introduced in Council and assigned Bill No. 2-204, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on January 10, 1978 and January 24, 1978, respectively. Approved without the signature of the Mayor on February 9, 1978, it was assigned Act No. 2-148 and transmitted to both Houses of Congress for its review.

References in text. — "This act", referred to in the first sentence of this section, is 32 Stat. 590, ch. 1352, approved July 1, 1902.

§ 47-2806. Licenses to be posted on premises; exhibition to police.

All licenses granted under the terms of this chapter must be conspicuously posted on the premises of the licensee and said licenses shall be accessible at all times for inspection by the police or other officers duly authorized to make such inspections. Licensees having no located place of business shall exhibit their licenses when requested to do so by any of the officers above named. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 6; July 1, 1932, 47 Stat. 551, ch. 366; 1973 Ed., § 47-2306; Apr. 30, 1988, D.C. Law 7-104, § 43(c), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 7-104. — See note to § 47-2801.

§ 47-2807. Construction and definition of terms.

For the purposes of this chapter, the term "person" shall signify and include firms, corporations, companies, associations, executives, administrators, guardians, or trustees; the term "agent" shall signify and include every person

acting for another; the term “merchandise” shall signify and include every article of commerce whether sold in bulk or otherwise; the term “dealers” shall signify and include every person engaged in selling or offering for sale any description of merchandise or property. Words of 1 number shall signify and include words of both numbers, respectively, and words of 1 gender shall signify and include words of every gender, respectively; provided, that nothing in this chapter shall be interpreted as repealing any specific act of Congress or any of the police or building regulations of the District of Columbia regarding the establishment or conduct of the businesses, trades, professions, or callings named in this chapter and not inconsistent with the provisions of this chapter. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 7; July 1, 1932, 47 Stat. 551, ch. 366; 1973 Ed., § 47-2307; Apr. 30, 1988, D.C. Law 7-104, § 43(d), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 7-104. — See note to § 47-2801.

§ 47-2808. Auctioneers; temporary licenses; penalty for failure to account.

(a) Auctioneers shall pay a license fee of \$222 per annum.

(b) The Mayor may issue a temporary auctioneer license to a person, firm, partnership, association, organization, or corporation engaged in or existing for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purpose and to a citizen-service program established pursuant to § 1-1443. The fee for a temporary auctioneer license shall be \$50. A temporary auctioneer license shall be valid for a period of not more than 7 calendar days as specified on the face of the license. The Mayor may amend the fee to be charged for a temporary auctioneer license to an amount not to exceed the reasonably estimated cost of performing administrative duties pertaining to the issuance of this license in accordance with the provisions of subchapter I of Chapter 15 of Title 1.

(c) No license shall issue hereunder without the approval of the Chief of Police. If any licensed auctioneer or any holder of a temporary auctioneer license, his agent or employee, shall convert to his own use in the District of Columbia any goods, wares, merchandise, or personal property of any description, or the proceeds of the same, and shall fail to pay over the avails or proceeds from the sale thereof, less his proper charges, within 5 days after receiving the money or its equivalent from the purchaser or purchasers of said goods, wares, merchandise, or personal property of any description, and after demand made therefor by the person entitled to receive the same, or his or her duly authorized agent, he shall be deemed guilty of a misdemeanor, and upon information and conviction in the Superior Court of the District of Columbia shall be fined not more than \$1,000 or be imprisoned not exceeding 6 months, or both, in the discretion of the court. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of

any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. Nothing herein contained shall be construed to repeal or alter the provisions of subchapter I of Chapter 27 of this title. (July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 9; July 1, 1932, 47 Stat. 552, ch. 366; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2309; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(c), 23 DCR 2461; Oct. 5, 1985, D.C. Law 6-42, § 469(a), 32 DCR 4450; Feb. 24, 1987, D.C. Law 6-181, § 2, 33 DCR 7664; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to police supervision of auctioneers of watches and jewelry, see § 4-147.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-42. — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-181. — Law 6-181, the "Temporary Auctioneer License

Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-222, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 21, 1986 and November 5, 1986, respectively. Signed by the Mayor on November 25, 1986, it was assigned Act No. 6-232 and transmitted to both Houses of Congress for its review.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2809. Barbershops and beauty parlors.

Owners or managers of barbershops, beauty parlors, beauty salons, vanity shops, or shingle shops, by whatsoever name called, where hair cutting, hair dressing, hair dyeing, manicuring, and kindred acts are practiced shall pay a license fee of \$60 biennially. In addition, any person who independently leases, rents, or is otherwise authorized to occupy a barbershop chair or a beauty shop booth from the owner of any such shop or establishment shall pay a license fee of \$60 biennially for each such chair or booth so leased, rented or otherwise occupied. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 10; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2310; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(d), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(a), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to licensing of barbers, see Chapter 4 of Title 2.

As to licensing of cosmetologists, see Chapter 9 of Title 2.

Section references. — This section is referred to in §§ 1-349 and 47-2810.

Effect of amendments. — D.C. Law 11-52 substituted “of \$60 biennially” for “of \$30 per annum” twice.

Emergency act amendments. — For temporary amendment of section, see § 302(a) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(a) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 11-52. — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

§ 47-2810. Conventions of national associations of hairdressers or cosmetologists exempted.

The provisions of Chapter 9 of Title 2 and of § 47-2809 shall not be applicable to activities conducted in connection with any bona fide regularly scheduled national annual convention of any national association of professional hairdressers or cosmetologists, from which the general public is excluded. (Aug. 4, 1955, 69 Stat. 485, ch. 544, § 1; 1973 Ed., § 47-2310a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

§ 47-2811. Massage establishments; Turkish, Russian, or medicated baths.

Owners or managers of massage establishments and Turkish, Russian, or medicated baths shall pay a license fee of \$300 per annum. No license shall be issued under this section without the approval of the Chief of Police. It shall be unlawful for any female to give or administer massage treatment or any bath to any person of the male sex, or for any person of the male sex to give or administer massage treatment or any bath to any person of the female sex, in any establishment licensed under this section. Any person violating the provisions of this section shall, upon conviction, be punished as hereinafter provided in this chapter; and, in addition to such penalty, it shall be the duty of the Mayor of the District of Columbia to revoke the license of the owner or manager of the establishment wherein the provisions of this section shall have been violated. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 11; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2311; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(e), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see Chapter 15 of Title 1.

As to penalties for violation of section, see § 47-2846.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Exemption of massage therapists. — Section 3 of D.C. Law 10-205, as amended by D.C. Law 11-110, provided that persons licensed to practice as a massage therapist under that act are exempt from the provisions of § 47-2811.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7,

dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

This section provides adequate notice of proscribed conduct, so that judges and juries may fairly administer the law in accordance with the legislative intent. *Deinlein v. District of Columbia*, App. D.C., 386 A.2d 296 (1978).

This section comports with the basic due process standards of definiteness and sufficiency of notice as to proscribed conduct. *Deinlein v. District of Columbia*, App. D.C., 386 A.2d 296 (1978).

Usage of "massage" conveys meaning. — Since the term "massage" has a universally accepted definition in society, the usage in this section of "massage" without further explication is sufficient to convey the meaning intended by the cross-sexual massage prohibition. *Deinlein v. District of Columbia*, App. D.C., 386 A.2d 296 (1978).

Brevity of contact between persons of opposite sex does not affect illegality of that contact. *Deinlein v. District of Columbia*, App. D.C., 386 A.2d 296 (1978).

Cited in *Cullinane v. Geisha House, Inc.*, App. D.C., 354 A.2d 515, cert. denied, 428 U.S. 923, 96 S. Ct. 3234, 49 L. Ed. 2d 1226 (1976).

§ 47-2812. Public baths.

Owners or managers of establishments where public baths are supplied to transients shall pay a license fee of \$152 per annum. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 12; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2312; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(f), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2813. Keeping or storing of moving picture films.

Owners or managers of establishments where moving picture films are kept or stored shall pay a license fee of \$65 per annum. No license shall be issued hereunder without the approval of the Fire Marshal of the District of Columbia. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 13; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2313; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

§ 47-2814. Gasoline, kerosene, oils, fireworks, and explosives.

(a) Owners or managers of establishments where gasoline or oils of like grade are sold shall pay a license fee of \$17 per annum for each pump used in dispensing said gasoline or oils.

(b) Owners or managers of establishments where kerosene, oils, or gasoline of like grade are stored underground shall pay a license fee of \$80 per annum, and where such like grade kerosene, oils, or gasoline are stored in above-ground tanks the license fee shall be \$94 per annum.

(c) Owners or managers of establishments where kerosene or like grade is kept for sale shall pay a license fee of \$19 per annum, and where oil or grease of like grade is kept for sale, the license fee shall be \$30 per annum, and where coal is kept for sale, the license fee shall be \$94 per annum, and where kerosene, gasoline, or oil is sold through a metering device, the license fee shall be \$64 per annum.

(d) Owners or managers of establishments where fireworks are stored or are kept for sale at wholesale or at both wholesale and retail shall pay a license fee of \$760. Owners or managers of establishments where fireworks are kept for sale at retail shall pay a license fee of \$100.

(e) Owners or managers of establishments where explosives of any kind, including ammunition but excluding fireworks, are stored or are kept for sale at wholesale or at both wholesale and retail shall pay a license fee of \$760. Owners or managers of establishments where explosives of any kind, including ammunition but excluding fireworks, are kept for sale at retail shall pay a license fee of \$47.

(f) No license shall be issued under this section without the approval of the Fire Marshal of the District of Columbia. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 14; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2314; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(g), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Council's authority to regulate storage of highly inflammable substances, see § 1-315.

As to Council's authority to prohibit use of explosives, see § 1-321.

As to registration of intent to sell motor vehicle fuels, see § 10-211.

Section references. — This section is referred to in §§ 1-349 and 10-211.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2815. Pyroxylin.

Owners or managers of establishments where pyroxylin is kept or stored for painting or spraying shall pay a license fee of \$50 per annum. No license shall issue hereunder without the approval of the Fire Marshal of the District of Columbia. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 15; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2315; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(h), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2816. Abattoirs or slaughterhouses.

Owners or proprietors of abattoirs or slaughterhouses, by whatsoever name called, shall pay a license fee of \$100 per annum. No license shall issue hereunder except with the approval of the Director of the Department of Human Services of the District of Columbia and a compliance with existing laws concerning location. (July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 16; July 1, 1932, 47 Stat. 553, ch. 366; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; 1973 Ed., § 47-2316; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Office of Director of Public Health abolished. — Section 1 of the Act of August 1, 1950, 64 Stat. 393, ch. 513, provided that the Health Officer of the District of Columbia would be known as the Director of Public Health. The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and Reorganization Order No. 52, dated June 30, 1953, combined and redesignated Organization Order No. 141, dated February 11, 1964, established under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and paramedical functions. The Anatomical Board

was established under the direction and control of the Director of Public Health consisting of members as prescribed in the D.C. Code. The Order prior to redesignation abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

§ 47-2817. Laundries; dry cleaning and dyeing establishments.

(a) Owners or managers of laundries operated other than by hand power shall pay a license fee of \$188 biennially.

(b) Owners or managers of laundries operated by hand power shall pay a license fee of \$60 biennially.

(c) Owners or managers of dry cleaning or dyeing establishments shall pay a license fee of \$222 biennially. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 17; July 1, 1932, 47 Stat. 553, ch. 366; 1973 Ed., § 47-2317; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(i), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(b), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — D.C. Law 11-52, in (a), substituted "\$188 biennially" for "\$94 per annum"; in (b), substituted "\$60 biennially" for

"\$30 per annum"; and, in (c), substituted "\$222 biennially" for "\$111 per annum."

Emergency act amendments. — For tem-

porary amendment of section, see § 302(b) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(b) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 11-52. — See note to § 47-2809.

§ 47-2818. Mattress manufacture, renovation, storage, or sale; “mattress” defined.

(a) Persons engaged in the business of manufacturing or renovating mattresses shall pay a license fee of \$476 biennially.

(b) Owners or managers of establishments where mattresses are stored, sold, or kept for sale shall pay a license fee of \$34 biennially.

(c) Within the meaning of this section, the term “mattress” shall be deemed to include any quilt, comforter, pad, pillow, cushion, or bag stuffed with hair, down, feathers, wool, cotton, excelsior, jute, or any other soft material and designed for use for sleeping or reclining purposes. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 18; July 1, 1932, 47 Stat. 553, ch. 366; 1973 Ed., § 47-2318; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(j), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(c), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to manufacture, renovation, and sale of mattresses, see Chapter 8 of Title 6.

Section references. — This section is referred to in § 1-349.

Effect of amendments. — D.C. Law 11-52, in (a), substituted “\$476 biennially” for “\$238 per annum”; in (b), substituted “\$34 biennially” for “\$17 per annum”; and, in (c), inserted “the term.”

Emergency act amendments. — For temporary amendment of section, see § 302(c) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(c) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 11-52. — See note to § 47-2809.

§ 47-2819. Slot machines.

Proprietors of slot weighing machines, or slot machines used for dispensing foodstuffs or refreshments of any kind, shall pay a license fee of \$8 per annum for each such machine. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 19; July 1, 1932, 47 Stat. 553, ch. 366; 1973 Ed., § 47-2319; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(k), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to regulation and supervision of slot machines, see § 10-110.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Cited in F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review, App. D.C., 579 A.2d 713 (1990).

§ 47-2820. Theaters, moving pictures, skating rinks, dances, exhibitions, lectures, entertainments; assignment of police and firemen and additional fees based thereon; hours minors are prohibited on premises.

(a) Owners or managers of theaters in which moving pictures are displayed, for profit or gain, shall pay a license fee of \$830 biennially.

(b) Owners or managers of buildings in which skating rinks, fairs, carnivals, balls, dances, exhibitions, lectures, or entertainments of any description including theatrical or dramatic performances of any kind are conducted, for profit or gain, shall pay a license fee of \$500 per annum; provided, that for entertainments, concerts, or performances of any kind where the proceeds are intended for church or charitable purposes, and where no rental is charged, no license shall be required; provided further, that when, in the opinion of the Chief of Police and the Fire Chief of the District of Columbia, or either of them, it is necessary to post policemen or firemen, or both, at, on, and about the licensed premises for the protection of the public safety, in addition to the license fee provided for above, such owners or managers shall pay a further monthly permit fee, to be determined monthly by the said Chief of Police and Fire Chief, or either of them, based upon a reasonable estimate of the number of hours to be spent by policemen and firemen at, on, and about the licensed premises, this fee to be payable in advance on the first day of the month for which the permit is sought. Policemen and firemen so assigned shall be charged for by the hour at the basic daily wage rate of policemen and firemen so assigned in effect the first day of the month for which the permit is sought.

(b-1)(1)(A) Before granting or renewing a license under subsection (b) of this section, the Mayor shall give 30-days notice by mail to the affected Advisory Neighborhood Commission and by publication in the District of Columbia Register. The notice shall contain the name of the applicant and a description, by street and number, or other plain designation, of the particular location for which the license is requested. The notice shall state that any resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for which the license is requested who objects to the granting of the license is entitled to be heard before the granting or renewal of the license and shall name the time and place of the hearing.

(B) The applicant shall post 2 notices for a period of 4 weeks in conspicuous places on the outside of the premises. The notices to be posted shall state that any resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for

which the license is requested who objects to the license is entitled to be heard before the granting or renewal of the license and shall name the same time and place for the hearing as set out in the notice mailed and published by the Mayor.

(C) If an objection to the granting or renewal of the license is filed, no final action shall be taken by the Mayor until the resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for which the license is requested who objects has an opportunity to be heard, under the rules and regulations to be issued by the Mayor.

(2) Upon objection, a hearing shall be held by the Mayor to determine the following:

(A) The effect of the establishment on the peace, order, and quiet of the neighborhood or portion of the District of Columbia; and

(B) The effect of the establishment on the residential parking needs and vehicular and pedestrian safety of the neighborhood.

(3) The Mayor shall rule on the application within 30 days of the hearing.

(4) The license shall be renewed annually.

(b-2) Any applicant who holds a valid class C or D license issued pursuant to Chapter 1 of Title 25 shall be exempt from the provisions of subsection (b-1) of this section.

(c)(1) Except as provided in paragraph (2) of this subsection, after 11:30 p.m. on Sundays through Thursdays except days preceding holidays and after 1:00 a.m. on Saturdays, Sundays, and legal holidays until 8:00 a.m. of each day, owners or managers of facilities licensed under the provisions of this section shall not permit any minor to be present on the licensed premises.

(2) Paragraph (1) of this subsection shall not apply to owners or managers:

(A) Of theaters when displaying moving pictures; or

(B) Of buildings in which fairs, carnivals, exhibitions, lectures, and theatrical or dramatic performances are being conducted.

(d) The Department of Consumer and Regulatory Affairs shall suspend the license of any licensee determined to have violated the provisions of subsection (c) of this section. The period of suspension shall not exceed 1 year for each violation. A licensee alleged to be in violation shall be entitled to a hearing in accordance with § 1-1509. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 20; July 1, 1932, 47 Stat. 553, ch. 366; June 29, 1948, 62 Stat. 1109, ch. 735, §§ 1, 2; 1973 Ed., § 47-2320; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(l), 23 DCR 2461; Mar. 11, 1988, D.C. Law 7-88, § 2, 35 DCR 164; Aug. 17, 1991, D.C. Law 9-23, § 2, 38 DCR 4088; July 22, 1992, D.C. Law 9-131, § 2(b), (c), 39 DCR 4057; Sept. 29, 1992, D.C. Law 9-160, § 2, 39 DCR 5694; Sept. 26, 1995, D.C. Law 11-52, § 302(d), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to revocation of license for public indecency, see § 47-2803.

Section references. — This section is referred to in § 1-349.

Effect of amendments. — D.C. Law 11-52 substituted “\$830 biennially” for “\$415 per annum” in (a).

Emergency act amendments. — For tem-

porary amendment of section, see § 302(d) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(d) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting "biennially" for "biannually" wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 7-88. — Law 7-88, the "District of Columbia Public Hall Regulation Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-220, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-126 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-23. — Law 9-23, the "District of Columbia Public Hall Regulation Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-208. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 24, 1991, it was assigned Act No. 9-50 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-131. — Law 9-131, the "District of Columbia Public Hall Regulation Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-486. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-216 and transmitted to both Houses of Congress for its review. D.C. Law 9-131 became effective on July 22, 1992.

Legislative history of Law 9-160. — Law 9-160, the "District of Columbia Public Hall Regulation Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-328, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by

the Mayor on July 21, 1992, it was assigned Act No. 9-254 and transmitted to both Houses of Congress for its review. D.C. Law 9-160 became effective on September 29, 1992.

Legislative history of Law 11-52. — See note to § 47-2809.

Delegation of authority under D.C. Law 9-160, the District of Columbia Public Hall Regulation Amendment Act of 1992. — See Mayor's Order 92-130, October 22, 1992.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Office of Chief Engineer abolished. — The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated "Deputy Fire Chief," and the Battalion Chief Engineer was designated "Battalion Fire Chief" by Reorganization Order No. 6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and regulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

Defendants lacking license lacked standing to challenge constitutionality of section. — Where dancing and motion pictures, coupled with an admission fee for entry to defendant's club, plainly required a license, and the evidence demonstrated that the club had no license, defendant lacked standing to challenge this section on the ground that it is unconstitutionally vague. *Sobin v. District of Columbia*, App. D.C., 494 A.2d 1272, cert. denied, 474 U.S. 860, 106 S. Ct. 173, 88 L. Ed. 2d 144 (1985).

§ 47-2821. Bowling alleys; billiard and pool tables; games.

Owners or managers of establishments where bowling alleys, billiard or pool tables, or any table, alley, or board upon which legitimate games are played, shall, when they are operated or conducted for public use, or for profit or gain, pay a license tax of \$39 per annum for each such alley, board, or table. No license shall issue under this section without the approval of the Chief of Police; provided, that in case of refusal of said Chief of Police to approve said license, or upon written protest of a majority or more of the property owners or residents of the block in which it is proposed to grant such license, an appeal may be taken to the Mayor of the District of Columbia, whose decision shall be final. All establishments licensed under this section shall be closed during the entire 24 hours of each and every Sunday and between the hours of 1:00 a.m. and 8:00 a.m. on the secular days of the week; provided, however, that bowling alley establishments licensed under this section shall be closed at midnight on Saturday night and shall remain closed until 2:00 p.m. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 21; July 1, 1932, 47 Stat. 553, ch. 366; Apr. 14, 1937, 50 Stat. 63, ch. 77; 1973 Ed., § 47-2321; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(m), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see Chapter 15 of Title 1.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent,

Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2822. Shooting galleries.

Owners or managers of shooting galleries shall pay a license fee of \$10 per annum. No shooting gallery shall be licensed until the Inspector of Buildings for the District of Columbia shall furnish a certificate that suitable precautions have been taken for the public safety by the erection of suitable shields and such appliances as, in his judgment, may be necessary. Before such license shall be issued, the proprietor shall furnish to the Mayor of the District of Columbia or his designated agent the written consent of a majority of the occupants and residents on the same side of the square or block in which the proposed gallery is to be located and also on the confronting side of the square fronting opposite to the same. The Chief of Police is hereby authorized to prescribe the caliber of firearms and kind of cartridges to be used in such licensed places. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 22; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2322; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Office of Inspector of Buildings abolished. — Section 3 of the Act of December 20, 1944, 58 Stat. 822, ch. 611, transferred all the duties, powers, rights, and authority of the Inspector of Buildings of the District of Columbia to the Director of Inspection of the District of Columbia. The Department of Inspections was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 55 of the Board of Commissioners, dated June 30, 1953, and amended August 13, 1953, and December 17, 1953, established under the direction and control of a Commissioner, a Department of Licenses and Inspections headed by a Director. The Order set out the purpose, organization, and functions of the new department. The Order provided that all of the functions and positions of the following named organizations were transferred to the new Department of Licenses and Inspections: The Department of Inspections including the Engineering Section, the Building Inspection Section, the Electrical Section, the Elevator Inspection Section, the Fire Safety Inspection Section, the Plumbing Inspection Section, the Smoke and Boiler Inspection Section, and the Administrative Section, and similarly the Department of Weights, Measures and Markets, the License Bureau, the License Board, the License Committee, the Board of Special Appeals, the Board for the Condemnation of Dangerous and Unsafe Build-

ings, and the Central Permit Bureau. The Order provided that in accordance with the provisions of Reorganization Plan No. 5 of 1952, the named organizations were abolished. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions vested in the Department of Licenses and Inspection by Reorganization Order No. 55 were transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order No. 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2823. Baseball, football, and athletic exhibitions; assignment of police and firemen; amusement parks.

(a)(1) Owners or managers of grounds used for baseball, football, or other athletic exhibitions to which an admission fee is charged, directly or indirectly, shall pay a license fee of \$17 per annum.

(2) When, in the opinion of the Chief of Police and Fire Chief of the District of Columbia, or either of them, it is necessary to post policemen or firemen, or both, at, on, and about the licensed premises for the protection of the public safety, in addition to the license fee provided for above, such owners or managers shall pay a further monthly permit fee, to be determined monthly by the said Chief of Police and Fire Chief, or either of them, based upon a reasonable estimate of the number of hours to be spent by policemen and firemen, or either of them, at, on, and about the licensed premises, such fee to be payable in advance on the first day of the month for which the permit is sought. Policemen and firemen so assigned shall be charged for by the hour at the basic hourly wage rate of the policemen and firemen so assigned in effect on the first day of the month for which the permit is sought.

(b) Owners or managers of grounds used for amusement parks, to which an admission is charged, directly or indirectly, other than those used for athletic exhibitions, shall pay a license fee of \$208 per annum. Annual licenses issued under this section shall date from April 1st in each year. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 23; July 1, 1932, 47 Stat. 554, ch. 366; June 29, 1948, 62 Stat. 1109, ch. 735, § 3; 1973 Ed., § 47-2323; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(n), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to Commission on Baseball, see § 2-2901.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Office of Chief Engineer abolished. —

The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated "Deputy Fire Chief," and the Battalion Chief Engineer was designated "Battalion Fire Chief" by Reorganization Order No. 6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and regulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

§ 47-2824. Swimming pools.

Owners or managers of swimming pools, indoor or outdoor, shall pay a license fee of \$319 per annum. (July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 24; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2324; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(o), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2825. Circuses.

Proprietors or owners of a circus transported by railroad into the District of Columbia shall pay a license fee of \$19 per day for each carload of circus equipment, and proprietors or owners of any circus transported by wagons or motor trucks into the District of Columbia shall pay a license tax of \$14 per day for each motortruck load or wagon load of circus equipment, but not to exceed \$875 per day. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 25; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2325; Sept. 14, 1976, D.C. Law 1-82, title

I, § 104(p), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2826. Special events.

(a) Owners, managers, or promoters of carnivals or fairs, by whatsoever name called, conducted for profit or gain, and not held in any building or structure licensed under this chapter, shall pay a license fee of \$158 per day.

(b) The Mayor may adjust the license fee set in subsection (a) of this section to cover the costs to the District of providing police, fire, and other public services that are necessary to protect public health and safety. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 26; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2326; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(q), 23 DCR 2461; Mar. 16, 1995, D.C. Law 10-224, § 2(a), 41 DCR 8055; Mar. 21, 1995, D.C. Law 10-234, § 2(a), 42 DCR 28; Apr. 9, 1997, D.C. Law 11-198, § 105, 44 DCR 1730; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Effect of amendments. — D.C. Law 10-234 added (b).

D.C. Law 11-198 substituted "Owners, managers, or promoters" for "Owners or managers" in (a).

Temporary amendments of section. — Section 1201(a) of D.C. Law 10-253 amended (b) to read as follows: "(b) The Mayor may adjust the license fee set forth in subsection (a) of this section to cover the costs to the District of providing police, fire, and other public services that are necessary to protect public health and safety."

Section 1201(b) of D.C. Law 10-253 provided that the Mayor shall establish, by rule, a schedule of license fees for special events held on public space to cover the costs to the District of providing police, fire, and other public services that are necessary to protect public health and safety.

Section 1301(b) of D.C. Law 10-253 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Multiyear Budget Spending Reduction and Support Act of 1995, whichever occurs first.

Section 103 of D.C. Law 11-226 amended (a) to read as follows:

"(a) Owners, managers, or promoters of carnivals or fairs, by whatsoever name called, conducted for profit or gain, and not held in any building or structure licensed under this chapter, shall pay a license fee of \$158 per day."

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date

of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the Budget Spending Reduction Emergency Amendment Act of 1994 (D.C. Act 10-339, November 22, 1994, 41 DCR 7702) and § 2(a) of the Budget Spending Reduction Congressional Adjournment Emergency Amendment Act of 1995 (D.C. Act 11-13, February 28, 1995, 42 DCR 1162).

For temporary amendment of section, see § 107 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), and see § 103 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

For temporary amendment of section, see § 103 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 10-234. — Law 10-234, the "Budget Spending Reduction Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-763, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on

December 27, 1994, it was assigned Act No. 10-377 and transmitted to both Houses of Congress for its review. D.C. Law 10-234 became effective on March 21, 1995.

Legislative history of Law 10-253. — Law 10-253, the “Budget Spending Reduction Temporary Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-857. The Bill was adopted on first and second readings on December 21, 1994, and January 3, 1995, respectively. Deemed approved without the signature of the Mayor on January 27, 1995, it was assigned Act No. 10-361 and transmitted to both Houses of Congress for its review. D.C. Law 10-253 became effective on March 23, 1995.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

Legislative history of Law 11-226. — Law 11-226, the “Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective on April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Application of Law 11-226. — Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Mayor authorized to issue rules. — Section 2(b) of D.C. Law 10-361 provided that the Mayor shall establish by rule a schedule of license fees for special events held on public space to cover the costs to the District providing police, fire, and other public services that are necessary to protect public health and safety.

§ 47-2827. Commission merchants in food; bakeries; bottling, candy-manufacturing, and ice cream manufacturers; groceries; markets; delicatessens; restaurants; private clubs; wholesale fish dealers; dairies.

(a) Commission merchants dealing in food or food products shall pay a license fee of \$645 per annum.

(b)(1) Owners or managers of bakeries, bottling establishments, candy-manufacturing establishments, grocery stores, marine products or fish sold at retail, meat shops and market stands handling food or food products shall pay a license fee of \$222 biennially.

(2) If any licensee under this section shall conduct upon the same premises more than one calling listed in paragraph (1) of this subsection, no additional fee shall be required.

(3)(A) Subject to the provisions of subparagraph (B) of this paragraph a grocery store that is a supermarket development as that term is defined in § 47-3801(3) in an underserved area of the District approved pursuant to § 47-3803, shall be exempt from the license fee imposed by this subsection for the first 5 years beginning after the date of issuance of the final certificate of occupancy for the supermarket.

(B) The license fee exemption granted by subparagraph (A) of this paragraph shall apply:

(i) Only during the time that the real property is used as a supermarket;

(ii) In the case of a supermarket development on real property not owned by the supermarket, only if the owner of the real property leases the land or structure to the supermarket at a rent reduced from the fair market rent by an amount equal to the amount of the real property tax exemption provided by § 47-1002(23);

(iii) Only during the time that the supermarket development is in compliance with the requirements of § 1-1161 et seq.; and

(iv) In the case of a supermarket development that is a new supermarket, only if at the time construction of the new supermarket commenced no other supermarket, as that term is defined in § 47-3801(2), existed within a one mile radius of the new supermarket.

(c) Owners or managers of delicatessens, ice cream parlors, soda fountains, or soft drink establishments shall pay a license fee of \$133 per annum; provided, that if any licensee hereunder shall conduct upon the same premises more than 1 of the callings herein listed, or listed in subsection (b) of this section, no additional fee shall be required.

(d) Owners or managers of ice cream manufacturing establishments shall pay a license fee of \$1,050 per annum; provided, that if any licensee hereunder shall conduct upon the same premises more than 1 of the callings listed in subsections (b) and (c) of this section, no additional fee shall be required.

(e)(1) Owners or managers of restaurants or private clubs shall pay a license fee based upon seating capacity as follows:

- (A) 0-10 seats \$133 per annum;
- (B) 11-50 seats \$166 per annum;
- (C) 51-100 seats \$199 per annum; and
- (D) 101 seats and over \$232 per annum.

(2) Within the meaning of this subsection a restaurant shall be any place where food or refreshments are served to transient customers to be eaten on the premises where sold.

(3) Licenses to operate restaurants or cafeterias in the District of Columbia public schools shall be issued at no charge to the Board of Education.

(4) If any licensee hereunder shall conduct upon the same premises more than 1 of the callings listed in subsections (b) and (c) of this section, no additional fee shall be required.

(f) Wholesale dealers in fish or other marine products shall pay a license fee of \$429 per annum.

(g) Owners or managers of dairies shall pay a license fee of \$3,300 per annum.

(h) All dealers in food or food products not listed herein, or elsewhere in this chapter shall pay a license fee of \$111 per annum. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 27; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2327; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(r), 23 DCR 2461; Sept. 29, 1988, D.C. Law 7-173, § 6, 35 DCR 5758; Sept. 26, 1995, D.C. Law 11-52, § 302(e), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-349, 47-3801 and 47-3803.

substituted “\$222 biennially” for “\$111 per annum” in (b)(1).

Effect of amendments. — D.C. Law 11-52

Emergency act amendments. — For tem-

porary amendment of section, see § 302(e) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(e) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that

§ 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 7-173. — See note to § 47-3801.

Legislative history of Law 11-52. — See note to § 47-2809.

§ 47-2828. Classification of buildings containing living quarters for licenses; fees; buildings exempt from license requirement.

The Council of the District of Columbia is authorized and empowered to classify, according to use, method of operation, and size, buildings containing living or lodging quarters of every description, to require licenses for the business operated in each such building as in its judgment requires inspection, supervision or regulation by any municipal agency or agencies, and the Mayor of the District of Columbia is authorized and empowered to fix a schedule of license fees therefor in such amount as, in his judgment, will be commensurate with the cost to the District of Columbia of such inspection, supervision or regulation: owners of residential buildings in which one or more dwelling units or rooming units are offered for rent or lease shall obtain from the Mayor a license to operate such business. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 28; July 1, 1932, 47 Stat. 555, ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 3; 1973 Ed., § 47-2328; July 25, 1995, D.C. Law 11-30, § 10, 42 DCR 1547; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-349 and 1-2502.

Effect of amendments. — D.C. Law 11-30 substituted “Owners of residential buildings ... such business” for “Provided, however, that no license shall be required for single-family or 2-family dwellings, nor for a rooming house offering accommodations for no more than 4 roomers” at the end of the section.

Legislative history of Law 11-30. — Law 11-30, the “Technical Amendments Act of 1995,” was introduced in Council and assigned Bill No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 7, 1995, and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

Limitation of housing licensing regulations to buildings containing more than 2 units is not unconstitutional as a deprivation of any right to equal protection under the

due process clause of the Fifth Amendment, nor is such limitation arbitrary or unreasonable. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Consent to inspection by license applicant. — The owner of a multiple dwelling structure, by applying for license under this section to operate building as apartment house, consented to inspection of premises required by § 47-2802, and entry into the building without a warrant did not violate his Fourth Amendment rights. *John D. Neumann Properties, Inc. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 268 A.2d 605 (1970).

In applying for a housing business license, applicant had effectively consented to inspection of his entire premises for compliance with all applicable provisions of the Housing Regulations, including both the licensing regulations and the Housing Code. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 421 A.2d 27 (1980), cert. denied, 450 U.S. 921, 101 S. Ct. 1369, 67 L. Ed. 2d 348 (1981).

Right to hearing regarding nonrenewal of license. — Where a petitioner, whose appli-

cation for renewal of his license to operate an apartment house was denied, had been conducting a going business under license, property rights had attached and the Fifth Amendment entitles him to a due process hearing in regard to nonrenewal of his license, even though the licensing regulation itself does not make a hearing a prerequisite to nonrenewal. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Stay of orders. — An order denying an application for renewal of a license to operate an apartment house may be stayed if the petitioner so requests so that a due process hearing may take place. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Regulation requiring that building must have at least 30 bedrooms to be licensed as hotel was valid. *Courembis v. District of Columbia*, 193 F.2d 18 (D.C. Cir. 1951).

Effect of landlord's failure to procure license. — A landlord's violation of law in failing to procure required licenses is not to be treated any differently than a violation of law in failing to meet the minimum standards of habitability; in neither case does a violation arising after the lease term has commenced void the contract, and in neither case does the failure to comply with statutory requirements

deprive the landlord of his right to sue for possession for nonpayment of rent. *Curry v. Dunbar House, Inc.*, App. D.C., 362 A.2d 686 (1976).

Denial of license based on Housing Code violations. — Where Housing Code violations have a substantially detrimental effect on the health and safety of the tenants of an apartment building, denial of the owner's license renewal application is justified, particularly in light of the cumulative effect of numerous violations. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Effect of Housing Code violations on validity of lease. — The fact that there had been Housing Code violations, in the process of being corrected, in tenant's apartment at time she executed lease does not render lease invalid. *Watson v. Kotler*, App. D.C., 264 A.2d 141 (1970).

Cited in *District of Columbia v. Greenway, Inc.*, App. D.C., 103 A.2d 872 (1954); *John D. Neumann Properties, Inc. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 268 A.2d 605 (1970); *Hsu v. Thomas*, App. D.C., 387 A.2d 588 (1978); *Novak v. District of Columbia*, App. D.C., 486 A.2d 709 (1985); *Temple v. District of Columbia Rental Hous. Comm'n*, App. D.C., 536 A.2d 1024 (1987).

§ 47-2829. Vehicles for hire; identification tags on vehicles; vehicles for school children; ambulances, private vehicles for funeral purposes; issuance of licenses; payment of fees.

(a) Every passenger vehicle for hire licensed under this section shall be considered a public vehicle.

(b) Any person, partnership, association, trust, or corporation operating or proposing to operate any vehicle or vehicles not confined to rails or tracks for the transportation of passengers for hire over all or any portion of any defined route or routes in the District of Columbia, shall, on or before the first day of October in each year, or before commencing such operation, submit to the Mayor, in triplicate, an application for license, stating therein the name of such person, partnership, association, trust, or corporation, the number and kind of each type of vehicle to be used in such operation, the schedule or schedules and the total number of vehicle miles to be operated with such vehicles within the District of Columbia during the 12-month period beginning with the first day of November in the same year; provided, that the provisions of this subsection shall not apply to companies operating both street railroad and bus services in the District of Columbia which pay taxes to the District of Columbia on their gross receipts; provided, that the provisions of this subsection shall not apply to the Washington Metropolitan Area Transit Authority. The Mayor shall thereupon verify and approve, or return to the applicant for correction and resubmission, each such statement. Upon receipt of the approved copy, and

prior to the first day of November in the same year, or before commencing such operation, each such applicant shall pay to the Collector of Taxes, in lieu of any other personal or license tax, in connection with such operation with such operation, the sum of \$.01 for each vehicle mile proposed to be operated in the District of Columbia in accordance with the application as approved. Upon presentation of the receipt for such payment, the Mayor of the District of Columbia or his designated agent shall issue a license authorizing the applicant to carry on the operations embodied in the approved application. No increase of operations shall be commenced or continued unless and until an application similar to the original and covering such increase in operation shall have been approved and forwarded in the same manner and the corresponding additional payment made and license issued. No license shall be issued under the terms of this subsection without the approval of the Mayor.

(c) There is hereby imposed for the privilege of operating vehicles for hire having a seating capacity of more than 12 passengers in addition to the driver or operator, other than those licensed under subsection (b) of this section in the District of Columbia, a license tax of \$150 per annum or \$10 per day at the option of the operator. The license issued pursuant to this subsection shall be transferable between vehicles operated under the same ownership, management, operation, or control. No such vehicle shall be operated unless there shall be conspicuously displayed thereon a license issued under the terms of this subsection. Annual licenses required by this subsection shall be issued by the Department of Public Works.

(d) Owners of taxicabs shall pay an annual license tax of \$25 or an amount set by the District of Columbia Taxicab Commission, but in no event to exceed \$100, for each taxicab which is to be operated in the District. The District of Columbia Taxicab Commission is authorized to make all reasonable and usual regulations for the control of taxicabs, and the Mayor shall make and enforce all reasonable and usual regulations he or she may consider necessary for vehicles licensed under the preceding subsections and § 47-2831. Annual licenses required by this subsection shall be issued by the Department of Public Works.

(e)(1) No person shall engage in driving or operating any vehicle licensed under the terms of subsection (c) of this section without having procured from the Mayor of the District of Columbia a license which shall not be issued except upon evidence satisfactory to the Mayor of the District of Columbia that the applicant is a person of good moral character and is qualified to operate the vehicle, and upon payment of an annual license fee of \$35 or an amount set by the Mayor, but in no event to exceed \$100. The license shall be displayed within the vehicle at all times while the licensee is engaged in driving any vehicle licensed under the terms of subsection (c) of this section. Application for the license shall be made in the form as shall be prescribed by the Mayor of the District of Columbia. No license issued under the provisions of this subsection shall be assigned or transferred. All operators of taxicabs shall first procure from the District of Columbia Taxicab Commission a license to operate a taxicab, which license shall be personal and nontransferable, upon payment of an annual license fee of \$35 or in an amount set by the District of Columbia

Taxicab Commission, but in no event to exceed \$100. The Commission may issue a license of less than 1 year to operate a taxicab.

(2) Upon March 15, 1985, the following additional licensing requirements shall apply to all persons who apply for a license to operate any vehicle licensed under the terms of subsection (d) of this section:

(A) Completion of the hacker's license training course consisting of not less than 24 hours administered exclusively by the University of the District of Columbia ("University") for a fee of not less than \$100 for each person. Upon completion of the course the University shall issue a certificate of completion which shall include the date of completion and shall be presented to the Office of Taxicabs with the application for a license. Prior to issuing the certificate the University shall require each person to pass a test consisting of the subject matters taught in the course and an evaluation of the person's English communication skills. The chairperson of the District of Columbia Taxicab Commission, with the approval by majority vote of the full Commission, shall designate appropriate representatives of the Office of Taxicabs, the District of Columbia Taxicab Commission, and representatives of the taxicab industry to advise the University on problems and issues facing the taxicab industry and to assist in developing and implementing the course, and the Mayor shall designate appropriate representatives of the Metropolitan Police Department to participate on the advisory board. At a minimum, this course shall be designed to develop the applicant's knowledge of the following:

(i) The geography of the District of Columbia, with particular emphasis on major streets and avenues throughout the District of Columbia, significant government buildings and tourist sites, and the boundaries of the zone map;

(ii) District of Columbia laws and regulations governing the taxicab industry and the penalties for violating these laws and regulations;

(iii) District of Columbia traffic laws and regulations, including, but not limited to, the rights and duties of motorists, pedestrians, and bicyclists and the penalties for violating these laws and regulations;

(iv) Public relations skills including appropriate social customs and courtesies which should be extended to the public; and

(v) Small business practices including methods of accounting and manifest maintenance, fare computations for intra-District of Columbia trips and interstate trips, and general management principles.

(B) Completion of an examination which shall consist of a minimum of 60 questions, the passing grade of which shall be 70% answered correctly, which shall test:

(i) The applicant's fitness for licensure based upon knowledge of the location of addresses, significant government buildings, and tourist sites, and an understanding of the Capital City Plan;

(ii) The applicant's fitness for licensure based upon the areas covered in the hacker's license training course, exclusive of geography;

(iii) The applicant's knowledge of the District, through a minimum of 5 written questions, which shall require the applicant to state the route to arrive at a destination from a particular location; and

(iv) Selected areas, through a minimum of 5 oral questions, covered in the hacker's license training course, exclusive of geography, and the applicant's ability to communicate in English.

(C) Each applicant may repeat the examination 3 times, if necessary. However upon the third failure, the applicant must repeat the hacker's license training course and present a new certificate of completion before repeating the examination. The Office of Taxicabs under the direction of District of Columbia Taxicab Commission shall construct a pool of no less than 300 questions from which the 60 questions shall be drawn for each examination which is administered. This pool shall be kept from public dissemination and shall be substantially revised at a minimum of every 2 years to protect the integrity of the examination.

(e-1) The District of Columbia Taxicab Commission, through its Panel on Adjudication, shall develop a comprehensive point system to evaluate the record of a person licensed under the terms of subsection (e) of this section, and owners of taxicabs licensed under the terms of this paragraph. The point system or revisions of it shall be approved by resolution of the council. Each violation of every rule or regulation pertaining to the ownership and operation of taxicabs, including violations of general traffic laws and regulations while operating a taxicab, shall be given a point value effective for 3 years. The record maintained by the Office of Taxicabs for each licensee shall be assigned the point value for the violation upon the final determination of liability by the District of Columbia Taxicab Commission's Panel on Adjudication, the Bureau of Traffic Adjudication, or any other governmental body charged with making a final determination of liability. The comprehensive point system shall include the maximum point total to determine when the Office of Taxicabs shall propose to suspend or revoke the license. If the license of a person licensed pursuant to subsection (e) of this section is revoked pursuant to this subsection or other law or regulation, the person must complete the requirements contained in subsection (e)(2)(A) and (B) of this section before the person may receive a new license. If the license of a person licensed pursuant to subsection (e) of this section is suspended pursuant to this subsection or other law or regulation, the licensee must complete the requirements contained in subsection (e)(2)(A) of this section and present to the Mayor of the District of Columbia the certificate of completion for the hacker's training course before the period of suspension is terminated.

(e-2) After March 25, 1987, the Office of Taxicabs under the direction of the District of Columbia Taxicab Commission, and prior to March 25, 1987, the Department of Public Works shall make the following information available for public inspection: The name of each person licensed under the terms of subsections (c) and (d) of this section; the licensee's annual license number; the name of the association, corporation, or organization that maintains the lease or membership agreement with the licensee; any monetary fine, suspension, or revocation action taken against the licensee; and any points assessed against the licensee in accordance with subsection (e-1) of this section; where applicable, a certificate of completion by the licensee of the training course established pursuant to subsection (e-1) of this section; a record of any criminal conviction

of the licensee within the last 3 years; and, any points assessed against the licensee's District of Columbia operators permit. The records shall be cross-referenced to the association, corporation, or organization.

(e-3) The District of Columbia Taxicab Commission's Panel on Rates and Rules may issue rules to implement the provisions of subsections (e) through (e-2) of this section pursuant to subchapter I of Chapter 15 of Title 1.

(e-4) After March 25, 1987, the Office of Taxicabs under the direction of the District of Columbia Taxicab Commission, and prior to March 25, 1987, the Department of Public Works shall, by registered mail and within 5 business days of a final decision of suspension, revocation, or non-renewal of a taxicab operator license, notify the association, corporation, organization, or person that maintains a taxicab lease or taxicab association or company membership agreement with the operator that the operator's privilege to operate a taxicab in the District of Columbia has been suspended, revoked, or not renewed. The association, corporation, organization, or person that maintains a lease with the operator shall upon receipt of the notice terminate any lease agreement, written or otherwise, with the operator, and shall take reasonable steps to assure the return to the owner of any vehicle leased to the operator. The District of Columbia Taxicab Commission shall promulgate regulations to carry out the purposes of this subsection, which shall come before the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution within this 45-day review period, the proposed regulations shall be deemed approved.

(f) All vehicles licensed under this section shall bear such identification tags as the Council of the District of Columbia may from time to time direct; and nothing herein contained shall exempt such vehicles from compliance with the traffic and motor vehicle regulations of the District of Columbia.

(g) Nothing in this subsection shall be construed to require the procuring of a license, or the payment of a tax, with respect to a vehicle owned or operated by a state or local government or a subdivision or instrumentality thereof which is being used to transport school children, their teachers, or escorts to the District of Columbia from the state in which their school is located.

(h) Except as otherwise provided in subsections (c) and (d) of this section, owners of motor vehicles for hire used for any purpose, including, but not limited to, owners of ambulances for hire, and owners of passenger vehicles which, when used for hire, are used exclusively for funeral purposes, and, owners of passenger vehicles used exclusively for contract livery services for which the rate is fixed solely by the hour, and owners of passenger vehicles for hire used for sightseeing purposes shall pay a license tax of \$25 or an amount set by the Mayor, but not to exceed \$100, for each vehicle having a seating capacity of 12 or less passengers exclusive of the driver used in the conduct of their business. Licenses requested by this subsection shall be issued by the Department of Public Works.

(i) No person shall engage in driving or operating any vehicle licensed under the terms of subsection (h) of this section without having procured from the

Mayor of the District of Columbia or his designated agent a license which shall only be issued upon evidence satisfactory to the Mayor of the District of Columbia, that the applicant is a person of good moral character and is qualified to operate such vehicle, and upon payment of an annual license fee \$5 or an amount set by the Mayor, but in no event to exceed \$100. Such license shall be carried upon the person of the licensee or in the vehicle while engaged in driving such vehicle when such vehicle is being used for hire. Application for such license shall be made in such form as shall be prescribed by the Mayor of the District of Columbia. Each annual license issued under the provisions of this paragraph shall be numbered, and there shall be kept in the Office of Taxicabs a record containing the name of each person so licensed, his annual license number and all matters affecting his qualifications to be licensed hereunder. No license issued under the provisions of this subsection shall be assigned or transferred. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 31; July 1, 1932, 47 Stat. 555, ch. 366; Apr. 5, 1939, 53 Stat. 570, ch. 41; July 17, 1939, 53 Stat. 1046, ch. 313, § 3; Jan. 15, 1942, 56 Stat. 3, ch. 2; June 20, 1942, 56 Stat. 375, ch. 428; July 30, 1951, 65 Stat. 126, ch. 247, §§ 1, 2; May 18, 1954, 68 Stat. 119, ch. 218, title XIV, § 1402; July 19, 1954, 68 Stat. 493, ch. 544, § 1; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; 1973 Ed., § 47-2331; Mar. 5, 1981, D.C. Law 3-139, § 2, 27 DCR 4555; Mar. 15, 1985, D.C. Law 5-178, § 2(a), (b), 32 DCR 757; Mar. 25, 1986, D.C. Law 6-97, § 21(a), 33 DCR 703; Feb. 24, 1987, D.C. Law 6-165, § 2, 33 DCR 6705; Feb. 24, 1987, D.C. Law 6-192, §§ 7, 27, 33 DCR 7836; Aug. 17, 1994, D.C. Law 10-149, § 2, 41 DCR 4485; Sept. 22, 1994, D.C. Law 10-171, § 3, 41 DCR 5149; Apr. 9, 1997, D.C. Law 11-198, § 503, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to general license fee requirement, see § 40-104.

As to establishment of Office of Taxicabs, see § 40-1712.

As to prosecution of violations of laws or regulations, see § 43-307.

Section references. — This section is referred to in §§ 1-349, 40-104, 40-301, 40-1720, 40-1721, 43-612, 43-1458, and 47-2313.

Effect of amendments. — D.C. Law 11-198 rewrote the last sentence in (c) and (d); and rewrote (h).

Temporary amendment of section. — Section 503 of D.C. Law 11-226 amended subsections (c), (d), and (h) to read as follows:

“(c) There is hereby imposed for the privilege of operating vehicles for hire, having a seating capacity of more than 12 passengers, in addition to the driver or operator, other than those licensed under subsection (b) of this section in the District of Columbia, a license tax of \$150 per annum or \$10 per day at the option of the operator. The license issued pursuant to this subsection shall be transferable between vehicles operated under the same ownership, management, operation, or control. No such vehicle shall be operated unless there shall be conspic-

uously displayed thereon a license issued under the terms of this subsection. Annual licenses required by this subsection shall be issued by the Department of Public Works.

“(d) Owners of taxicabs shall pay an annual license tax of \$25 or an amount set by the District of Columbia Taxicab Commission, but in no event to exceed \$100, for each taxicab which is to be operated in the District. The District of Columbia Taxicab Commission is authorized to make all reasonable and usual regulations for the control of taxicabs, and the Mayor shall make and enforce all reasonable and usual regulations he or she may consider necessary for vehicles licensed under the preceding subsections and § 47-2831. Annual licenses required by this subsection shall be issued by the Department of Public Works.

“(h) Except as otherwise provided in subsections (c) and (d) of this section, owners of motor vehicles for hire used for any purpose, including, but not limited to, owners of ambulances for hire, and owners of passenger vehicles which, when used for hire, are used exclusively for funeral purposes, and owners of passenger

vehicles used exclusively for contract livery service for which the rate is fixed solely by the hour, and owners of passenger vehicles for hire used for sightseeing purposes shall pay a license tax of \$25 or an amount set by the Mayor, but not to exceed \$100, for each vehicle having a seating capacity of 12 or less passengers exclusive of the driver used in the conduct of their business. Licenses requested by this section shall be issued by the Department of Public Works."

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 503 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 503 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151); and § 503 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Section 1001 of D.C. Act 11-429 provides for application of the act.

Section 1001 of D.C. Act 12-2 provides for application of the act.

Legislative history of Law 3-139. — Law 3-139, the "District of Columbia Sightseeing Bus Registration Act of 1986," was introduced in Council and assigned Bill No. 3-301, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 29, 1980 and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-260 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-178. — Law 5-178, the "Hacker's License Requirements Amendment Act of 1984," was introduced in Council and assigned Bill No. 5-453, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-243 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-97. — Law 6-97, the "District of Columbia Taxicab Commission Establishment Act of 1985," was introduced in Council and assigned Bill No. 6-159, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on first and second readings on Decem-

ber 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-125 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-165. — Law 6-165, the "Hacker's License Record Keeping Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-334, which was referred to the Committee on Public Works. The Bill was adopted on the first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-211 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-192. — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986 and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-149. — Law 10-149, the "Hacker's License Requirements Amendment Act of 1984 Temporary Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-646. The Bill was adopted on first and second readings on May 3, 1994, and June 7, 1994, respectively. Signed by the Mayor on June 23, 1994, it was assigned Act No. 10-262 and transmitted to both Houses of Congress for its review. D.C. Law 10-149 became effective on August 17, 1994.

Legislative history of Law 10-171. — Law 10-171, the "District of Columbia Taxicab Commission Establishment Act of 1985 Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-538, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-291 and transmitted to both Houses of Congress for its review. D.C. Law 10-171 became effective on September 22, 1994.

Legislative history of Law 11-198. — See note to § 47-2826.

Legislative history of Law 11-226. — See note to § 47-2826.

Effective date. — Section 24(b) of D.C. Law 6-97 provides that §§ 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, and 23 shall take effect 1 year after March 25, 1986.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

Application of Law 11-226. — Section 1001 of D.C. Law 11-226 provides that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Passenger. — Sick or well, one who is carried, for hire, through the streets in a vehicle kept and driven by another for such purposes is considered a passenger in the ordinary sense of the word, and whether the hire is greater or less than the cost of the service is not material. *Hazen v. Chambers*, 108 F.2d 741 (D.C. Cir. 1939).

Vehicles are "passenger vehicles for hire" when hired by an undertaker or lodge as clearly as when hired by individual passengers, and subject to tax. *Cave v. District of Columbia*, 90 F.2d 383 (D.C. Cir. 1937).

Ambulances. — Unless a restricted meaning is to be given to the word "passenger," it follows that ambulances are "passenger vehicles for hire." *Hazen v. Chambers*, 108 F.2d 741 (D.C. Cir. 1939).

Taxicab is a common carrier and its use of the public streets is not a right but a privilege or license which can be granted on such conditions as the legislature may impose for the protection of the public, and this section must be construed with that purpose in mind. *Stewart v. District of Columbia*, App. D.C., 35 A.2d 247 (1943).

Power to license taxicabs. — Under statutes delegating the power to regulate public utilities to the Commission, Congress did not confer the power to grant or withhold licenses to operate taxicabs. *Associated Taxicab Operators, Inc. v. Hayes*, 240 F.2d 638 (D.C. Cir. 1957).

Taxicab license personal and not transferable. — The license which the owner of a taxicab is required to obtain is for the vehicle and not for the use or business, and is personal and not transferable. *Stewart v. District of Columbia*, App. D.C., 35 A.2d 247 (1943).

Revocation of license for violation of regulation. — Only when the Council promulgates regulation explicitly making violation of Public Service Commission taxicab regulation grounds for suspension or revocation of a hackers' license can such violation constitute the basis for suspension or revocation order by the Hackers' License Appeal Board. *Proctor v. Hackers' Bd.*, App. D.C., 268 A.2d 267 (1970).

This section requires, in respect to bus transportation, licensing of vehicles rather than uses or businesses, and contemplates but 1 license for such a vehicle, which, under the stipulated facts operates primarily in regularly-routed passenger service and but occasionally in charter bus and sight-seeing service, and if the drafters intended to require a separate license for occasional charter bus and sight-seeing service, they did not provide for it.

Capital Transit Co. v. District of Columbia, 87 F.2d 748 (D.C. Cir. 1937).

This section is not restricted to those who are engaged in business in the District of Columbia, but it requires, in respect of bus transportation, the licensing of vehicles rather than uses or businesses. *District of Columbia v. Monumental Motor Tours, Inc.*, 122 F.2d 195 (D.C. Cir. 1941).

No reciprocal exemption from subsection (c) license tax. — The reciprocity provision of § 40-303 exempting certain foreign vehicle owners and drivers from the requirements of a District driver's permit and District vehicle registration has no other effect, and compliance with that section exempts no one, resident or nonresident, from the license tax imposed by subsection (c) of this section. *District of Columbia v. Monumental Motor Tours, Inc.*, 122 F.2d 195 (D.C. Cir. 1941).

This section does not interfere with interstate operation as applied to a Maryland corporation and its employee operating a sight-seeing bus from Baltimore to the District by way of Annapolis and return, but interferes only with operation from point to point within the District, and hence can be constitutionally applied to them. *District of Columbia v. Monumental Motor Tours, Inc.*, 122 F.2d 195 (D.C. Cir. 1941).

Regulation of bus tours originating and terminating outside metropolitan area. — The Washington Metropolitan Area Transit Authority lacks jurisdiction to regulate the operation of chartered bus tours which originate and terminate outside the metropolitan area and which provide overnight hotel accommodations for tour patrons taken on sight-seeing tours, with all passengers departing from and returning to same bus at each stop. *District of Columbia Transit Sys. v. Washington Metro. Area Transit Comm'n*, 420 F.2d 226 (D.C. Cir. 1969).

Operation of taxicab by owner for private use. — A taxicab owner could not operate his taxicab without having a taxicab operator's license, even though such operation was for his own private use while displaying an off-duty sign. *Stewart v. District of Columbia*, App. D.C., 35 A.2d 247 (1943).

"Person of good moral character" construed. — The Public Vehicle Branch of the District of Columbia Department of Transportation and Hackers' License Appeal Board did not abuse their discretion in refusing to renew license to drive taxicab for lack of "good moral character" where applicant was twice convicted of carrying a pistol without a license. *Yirenkyi v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 520 A.2d 328 (1987).

Determination of applicant's fitness. — The prior arrest of an applicant for a public vehicle operator's license could be reflecting upon his moral character, even though there

was no trial and no conviction. *Green v. Silver*, 207 F. Supp. 133 (D.D.C. 1962).

That an applicant for a license to drive a taxicab was unable to purchase liability insurance, had violated parking regulations, and 11 years before had had his operator's permit revoked for accumulation of traffic points did not constitute evidence as to moral fitness at time of application. *Green v. Silver*, 207 F. Supp. 133 (D.D.C. 1962).

That an applicant for a license to drive a taxicab had been arrested in 1943 when in his early twenties on a disorderly conduct charge which the government dropped was not sufficient evidence to support the finding that he was not a proper person to receive a public vehicle operator's license in 1961. *Green v. Silver*, 207 F. Supp. 133 (D.D.C. 1962).

Where applicant for taxicab driver's license had completed 2 years' probation and been released from court supervision before filing his application for the license, denial of a license cannot be premised on the District motor vehicle regulation which provides that an applicant shall not be considered of good moral character if he is on parole or probation at the time the license application is filed. *Richards v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 357 A.2d 439 (1976).

In a District of Columbia motor vehicle regulation pertaining to the licensing of taxicab drivers which states that an applicant shall not be considered of good moral character if he has, within the 3 years immediately preceding the filing of the application been convicted of, or during such period served any part of a sentence for certain enumerated offenses, the term "sentence" means time spent in prison confinement and does not encompass time spent on probation or parole. *Richards v. District of Co-*

lumbia Hackers' License Appeal Bd., App. D.C., 357 A.2d 439 (1976).

Omission in compilation of taxicab regulation. — Where a regulation governing taxicab drivers was validly enacted, properly published in the District of Columbia Register and accessible to a driver, it would not be declared invalid because of inadvertent omission in its compilation resulting from typographical error. *Pillis v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 366 A.2d 1094 (1976), cert. denied, 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784 (1977).

Suspension of license supported by substantial evidence. — Substantial evidence supported the order of the District of Columbia Hackers' License Appeal Board suspending a taxicab driver's license for 3 months on findings that he refused to pick up a fare, drove away from a hotel while the doorman had his hand on the taxicab door handle, and was rude. *Pillis v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 366 A.2d 1094 (1976), cert. denied, 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784 (1977).

Suspension of license held erroneous. — Since there was no finding by the Hackers' License Appeal Board that a hacker had violated a valid Public Service Commission taxicab regulation or that suspension of the hackers' license was warranted for the protection of public health or comfort, or in interest of public decency, nor was there probative or substantial evidence in the record upon which such finding could be made, the suspension of license for refusal to transport patron unless he rode in front seat of taxicab was erroneous. *Proctor v. Hackers' Bd.*, App. D.C., 268 A.2d 267 (1970).

Cited in *Boston Coach-Washington v. District of Columbia Taxicab Comm'n*, 930 F. Supp. 649 (D.D.C. 1996).

§ 47-2830. Rental or leasing of motor vehicle without driver.

The owners or managers of establishments where automobiles or other motor vehicles are kept for rent or lease without a driver shall pay a license fee of \$600 biennially for each such establishment; provided, that nothing in this section shall be so construed as to exempt such owners or managers from paying additional license taxes required by this chapter. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 32; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2332; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(s), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(f), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-349 and 47-2313.

Effect of amendments. — D.C. Law 11-52

substituted "\$600 biennially" for "\$300 per annum."

Emergency act amendments. — For tem-

porary amendment of section, see § 302(f) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(f) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 11-52. — See note to § 47-2809.

§ 47-2831. Vehicles hauling goods from public space.

Owners of vehicles for hire, used in hauling goods, wares, or merchandise, and operating from public space, shall pay a license tax of \$25 per annum for each vehicle. Stands for such vehicles upon public space may be established in the manner provided in § 40-703. Licenses issued under this section shall date from April 1st of each year, but may be issued on or after March 15th of such year; provided, however, that all licenses issued for a period prior to April 1, 1940, shall expire on March 31, 1940, and the license fee therefor shall be prorated accordingly. (July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 33; July 1, 1932, 47 Stat. 557, ch. 366; Apr. 5, 1939, 53 Stat. 570, ch. 41; July 17, 1939, 53 Stat. 1046, ch. 313, § 3; 1973 Ed., § 47-2333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 1-349, 47-2313, and 47-2829.

§ 47-2832. Repairing of motor vehicles.

Owners or managers of establishments where motor vehicles of any description are washed, cleaned, greased, oiled, or repaired, for profit or gain, shall pay a license fee of \$30 per annum. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 34; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2334; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(t), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2833. Livery stables.

Owners or managers of livery stables shall pay a license fee of \$54 per annum; provided, that nothing in this section shall be so construed as to exempt such owners or managers from paying additional license taxes required by this chapter. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 35; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2335; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(u), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-82. — See note to § 47-2808.

§ 47-2834. Sales on streets or public places.

(a) Except to sell newspapers sold at large and not sold from a fixed location, no person shall sell anything upon the public streets or from public space in the District of Columbia without a license under this section, unless the person sells at the several markets only the produce they have raised, or unless the person is less than 18 years old and has a valid work permit or street trade badge issued by the Board of Education of the District of Columbia. Persons licensed under this section shall be vendors designated, and required to pay a license fee, as follows:

(1) Class A, for people who vend food from public space, but not from door to door, \$130 per annum;

(2) Class A Temporary, for people who vend food from public space, but not from door to door, for a period of not more than 5 days, \$55 per period;

(3) Class B, for people who vend merchandise other than food from public space, but not from door to door, \$106 per annum;

(4) Class B Temporary, for people who vend merchandise other than food from public space, but not from door to door, for a period of not more than 5 days, \$43 per period;

(5) Class C Non-food, for people who vend merchandise other than food from door to door, \$111 per annum; and

(6) Class C Food, for people who vend food from door to door, \$135 per annum.

(b) The Mayor of the District of Columbia shall provide a licensed vendor with a license number and a badge corresponding to the vendor's license number, and the badge shall be worn conspicuously when the vendor transacts business. If the vendor makes sales from a vehicle, then the Mayor of the District of Columbia shall provide the vendor with a permanent certificate with the vendor's license number, and the certificate shall be conspicuously posted on the vehicle when the vendor transacts business. The Mayor of the District of Columbia shall enforce regulations governing vendors licensed under this section, and enforcement by the Mayor of the District of Columbia includes locating the places on the public streets and public spaces where licensed vendors may stand and changing the locations where vendors may stand as often as the public interest requires. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 36; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2336; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(aa), 23 DCR 2461; Sept. 26, 1984, D.C. Law 5-113, § 501, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to police regulations, see § 1-315.

As to traffic regulations, see § 40-703.

As to Regulation Governing Vending Businesses in Public Space, enacted December 13, 1974 (Reg. 74-39), see 24 DCMR.

Section references. — This section is referred to in §§ 1-349 and 7-1072.

Emergency act amendments. — For temporary requirement that the Mayor attempt to designate additional vending spaces to replace

vending spaces that have been eliminated as a result of recent federal measures to increase the security of the White House complex and the Federal Bureau of Investigation headquarters, see § 3 of the Vending Site Lottery and Assignment Amendment Emergency Act of 1996 (D.C. Act 11-267, May 21, 1996, 43 DCR 2836).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 5-113. — Law

5-113, the "District of Columbia Revenue Act of 1984," was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Effective date of § 501 of Law 5-113. — Section 502 of D.C. Law 5-113 provided that § 501 shall take effect April 1, 1985.

Mayor authorized to issue rules. — See second paragraph of note to § 47-2601.

This section is in violation of First Amendment with respect to publisher and itinerant street vendor of comic books principally devoted to social and political satire. *OD v. Wilson*, 323 F. Supp. 76 (D.D.C. 1971).

This section is a regulatory measure, and its aim is not to impose a tax for general revenue purposes but to provide a fee commensurate with costs of inspection, supervision, or regulation. *Busey v. District of Columbia*, 138 F.2d 592 (D.C. Cir. 1943).

Power to deny license does not flow from power of government to license vendors under this section. *Miller v. District of Columbia Bd. of Appeals & Review*, App. D.C., 294 A.2d 365 (1972).

Actions constituting sale. — Where the defendants stood on a street corner and, by the signs which they carried, offered magazines to the public at \$.05 each, and each defendant handed a magazine to the prosecuting witness and collected \$.05, each defendant made a sale within the meaning of this section. *Busey v. District of Columbia*, 138 F.2d 592 (D.C. Cir. 1943).

License fee in excess of cost of policing sales. — Where there was no evidence and no clear probability that the District license fee did not exceed cost of policing sales of religious propaganda, conviction for selling religious magazines on streets without having paid license fee could not be sustained. *Busey v. District of Columbia*, 138 F.2d 592 (D.C. Cir. 1943).

Newspaper vendors. — Where evidence showed no clear pattern of police harassment likely to be continued and where in light of administrative directive concerning vendors' licensing statute it did not appear likely that police would continue to attempt to prevent underground newspaper vendors from selling newspapers from stacks upon sidewalk, injunctive relief against the Metropolitan Police Department was properly refused. *Washington Free Community, Inc. v. Wilson*, 484 F.2d 1078 (D.C. Cir. 1973).

Seizure of license held proper. — Where vendor failed to show that the District government lacked the authority to enact the regulations requiring vendors to keep records of sales and receipts of sales available for inspection, and also failed to show with regard to the seizure of his vendor's license that the law authorizing the seizure of his license was enforced in a way that unfairly singled him out or otherwise discriminated against him, the appellate court affirmed the grant of summary judgment, the order denying the motions for a preliminary injunction and a cease and desist order, and the denial of the motion for a temporary restraining order. *Karriem v. Gray*, App. D.C., 623 A.2d 112 (1993).

§ 47-2835. Solicitors.

Solicitors shall pay a license fee of \$316 biennially. Any person who goes from house to house, or place to place, within the District of Columbia, selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, or any article or thing of value for future delivery, or for services to be performed in the future or for the making, manufacturing, or repairing of any article or thing whatsoever for future delivery, and requiring or accepting a deposit for such future delivery or service, shall be deemed to be a "solicitor," within the meaning of this section; provided, however, that this definition shall not apply to persons selling goods, wares, merchandise, or any article or thing of value for resale to retailers in that commodity. Any person desiring a solicitor's license shall make application to the Mayor of the District of Columbia or his designated agent on forms to be provided for that purpose, stating the name of the applicant, the name and address of the person whom he represents, the class and kind of goods offered for sale, or the kind of service to be performed. Such application shall be accompanied by a bond in the penal

sum of \$500, running to the District of Columbia, conditioned upon the making of final delivery of the goods ordered, or services to be performed, in accordance with the terms of such order, or failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any such solicitor shall have the right of action on the bond for the recovery of money, or damages, or both. All orders taken by licensed solicitors shall be in writing in duplicate, stating the terms thereof and the amount paid in advance, and 1 copy shall be given to the purchaser. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 37; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2337; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(v), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(g), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Effect of amendments. — D.C. Law 11-52 substituted “\$316 biennially” for “\$158 per annum” at the end of the first sentence.

Emergency act amendments. — For temporary amendment of section, see § 302(g) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(g) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended

§ 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

Section 304 of D.C. Law 11-52 provided that § 303 of the act shall be applicable as of April 28, 1995.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 11-52. — See note to § 47-2809.

§ 47-2836. Guides.

No person shall, for hire, guide or escort any person through or about the District of Columbia, or any part thereof, unless he shall have first secured a license so to do. The fee for each such license shall be \$28 per annum. No license shall be issued hereunder without the approval of the Chief of Police. The Council of the District of Columbia is authorized and empowered to make reasonable regulations for the examination of all applicants for such licenses and for the government and conduct of persons licensed hereunder, including the power to require said persons to wear a badge while engaged in their calling. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 38; July 1, 1932, 47 Stat. 558, ch. 366; 1973 Ed., § 47-2338; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(w), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 1-349.

Emergency act amendments. — For temporary amendment of section, see § 302(g) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(g) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

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Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police, Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Section inapplicable to federal conces-

sionaires. — Secretary of Interior has exclusive authority to regulate interpretive tour service operated under contract with Department of Interior, and service therefor is immune from enforcement of District of Columbia licensing and registration requirements. *District of Columbia v. Landmark Servs., Inc.*, 416 F. Supp. 559 (D.D.C.), modified, 419 F. Supp. 91 (D.D.C. 1976), modified sub nom. *United States v. District of Columbia*, 571 F.2d 651 (D.C. Cir. 1977).

The Secretary of the Interior’s exclusive control over the shuttle service between the Mall and the Stadium under 40 U.S.C. § 804 precluded application to a federal concessionaire of local District of Columbia laws relating to vehicle registration and inspection and tour guide licensing, but did not preclude application of local laws relating to certification of foreign corporations. *United States v. District of Columbia*, 571 F.2d 651 (D.C. Cir. 1977).

§ 47-2837. Secondhand dealers; classification; licensing; stolen property.

(a) The Council of the District of Columbia is authorized and empowered to classify dealers in secondhand personal property (referred to in this section as “dealers”) and the Mayor of the District of Columbia is authorized and empowered to fix and collect a license fee for each such class of dealer, which fee, in the judgment of the Mayor, will be commensurate with the cost to the District of Columbia of inspection, supervision, and regulation of such class of dealer.

(b) In classifying dealers the Council may take into consideration the kind of property dealt in, whether the property is retained by the dealer for sale at retail, whether the property is disposed of by the dealer out of the District of Columbia, whether the property is disposed of by the dealer as junk or otherwise, and such other criteria as the Council may deem appropriate.

(c) Any person engaging in the business of buying, selling, trading, exchanging, or dealing in secondhand personal property of any description, including the return of unused portion of any ticket, order, or token purporting to evidence the right of the holder or possessor thereof to be transported by any railroad or other common carrier, however operated, from one state or territory of the United States, or from the District of Columbia, to any other state or territory of the United States or to the District of Columbia, shall be regarded as a dealer, and shall obtain the appropriate license and pay the fee therefor fixed by the Mayor. For the purposes of this section, the term “secondhand personal property” shall not include any item of personal property:

(1) Which the possessor thereof has acquired as part payment or allowance on the sale by such possessor of a new or rebuilt item of personal property;

(2) Which the possessor thereof has acquired by reason of its return to him for credit, refund, or exchange by a person having purchased such item from such possessor; or

(3) Which is offered for sale, trade, or exchange by the person who repossesses the same.

(d) When any property has been stolen and sold in the District of Columbia to a dealer under such circumstances that the Mayor of the District of Columbia, after such dealer has been afforded a hearing, is satisfied that such dealer had cause to believe, or could have ascertained by reasonable inquiry or investigation that the property was stolen, and that the dealer did not make reasonable inquiry or investigation as to the title of the seller before making the purchase, the Mayor is authorized and directed to revoke the license of such dealer; and this action shall not be a bar to criminal prosecution for receiving stolen goods; provided, that nothing in this subsection shall be construed as prohibiting the Mayor from suspending or revoking the license of such dealer under the authority contained in § 47-2844. (July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 39; July 1, 1932, 47 Stat. 558, ch. 366; July 3, 1956, 70 Stat. 491, ch. 511, § 1; 1973 Ed., § 47-2339; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to regulation and supervision of secondhand dealers, see §§ 1-315 and 4-147.

As to administrative procedure, see Chapter 15 of Title 1.

Section references. — This section is referred to in § 1-349.

Engaging in selling secondhand property without license was not indictable at common law. Today it is at most but an infringement of local police regulations, and its moral quality is relatively inoffensive. *District of Columbia v. Clawans*, 300 U.S. 617, 57 S. Ct. 660, 81 L. Ed. 843 (1937).

Dealer in old and used phonograph records who held secondhand dealer's license

was dealer in secondhand personal property and subject to requirement that records be kept. *Draisner v. District of Columbia*, App. D.C., 212 A.2d 612 (1965).

Information alleging same offense following verdict of not guilty. — Finding that a defendant was not guilty of conducting a business dealing in secondhand personal property without first having obtained license to do so did not bar later information alleging that same offense had been committed after 1st judgment. *District of Columbia v. King*, App. D.C., 201 A.2d 530 (1964), appeal dismissed, 345 F.2d 440 (D.C. Cir. 1965).

Cited in *District of Columbia v. Fisher*, App. D.C., 258 A.2d 456 (1969).

§ 47-2838. Dealers in dangerous weapons.

Dealers in dangerous or deadly weapons shall pay a license tax of \$300 per annum. No license shall issue hereunder without the approval of the Chief of Police, and the Council of the District of Columbia is authorized and empowered to make and promulgate regulations for the conduct of the business of persons licensed hereunder, including the power to require a record to be kept of all sales of deadly or dangerous weapons, to prescribe a form therefor, and to require reports of all such sales to the Chief of Police at such time as the Council may deem advisable. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 40; July 1, 1932, 47 Stat. 558, ch. 366; 1973 Ed., § 47-2340; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(x), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to licenses of dealers of weapons, see §§ 22-3209 and 22-3210.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Of-

office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated

"Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Cited in *McIntosh v. Washington*, App. D.C., 395 A.2d 744 (1978).

§ 47-2839. Private detectives; "detective" defined; regulations.

(a) Private detectives, or detective agencies, by whatsoever name called, shall pay a license tax of \$158 per annum; provided, that no license shall be issued under this section without the approval of the Chief of Police.

(b) For the purpose of this section, the term "detective" or "detective agency" means and includes any person, firm, or corporation engaged in the business of, or advertising, or representing himself, or itself, as being engaged in the business of detecting, discovering, or revealing crime or criminals, or securing information for evidence relating thereto, or discovering or revealing the identity, whereabouts, character, or actions of any person or persons, thing or things.

(c) It shall be unlawful for any person to engage in the business of detective, or operate, manage, or conduct a detective agency, for profit or gain, or to advertise or represent his business to be that of a detective, or that of conducting, managing, or operating a detective agency, without first obtaining a license so to do.

(d) The Council of the District of Columbia is authorized and empowered to make such reasonable regulations as it deems advisable for the government and conduct of the business of private detectives licensed hereunder, and the Mayor of the District of Columbia is authorized and empowered to revoke the license of a private detective when in his judgment such is deemed advisable in the public interest.

(e) All laws which govern the Metropolitan Police force of the District of Columbia in the matters of persons, property, or money shall be applicable to all private detectives licensed hereunder, and such detectives shall make like returns and dispositions of such matters as is required by existing law and the rules of the Mayor of the District of Columbia governing the Metropolitan Police Department. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 41; July 1, 1932, 47 Stat. 559, ch. 366; 1973 Ed., § 47-2341; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(y), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to private detectives, see §§ 4-171 to 4-174.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Of-

ice of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in com-

mand of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Private detective sustained special injury sufficient to sustain action for malicious prosecution based on institution of administrative proceedings resulting in refusal to renew detective's license, where proceedings in no way involved protection of defendants' interests, detective's livelihood depended on license,

license was in effect revoked, and for nearly a month detective was disabled from carrying on his work. *Melvin v. Pence*, 130 F.2d 423 (D.C. Cir. 1942).

Calculation of damages in private detective's action for malicious prosecution. — In a private detective's action for malicious prosecution based on the institution of administrative proceedings resulting in the refusal to renew the detective's license, injury to reputation and mental suffering were proper elements of damage, and there was no error in instructions permitting those elements to be considered by jury. *Melvin v. Pence*, 130 F.2d 423 (D.C. Cir. 1942).

§ 47-2840. Fortune-telling.

Mediums, clairvoyants, soothsayers, fortune-tellers, palmists, or phrenologists, by whatsoever name called, conducting business for profit or gain, directly or indirectly, shall pay a license tax of \$550 per annum. No license shall be issued hereunder without the approval of the Chief of Police, nor shall any license be issued hereunder to any person not an actual resident of the District of Columbia for 2 years next preceding his date of application; provided, that no license shall be required of persons pretending to tell fortunes or practice palmistry, phrenology, or any of the callings herein listed, in a regular licensed theater, or as a part of any play, exhibition, fair, or show presented or offered in aid of any benevolent, charitable, or educational purpose; provided further, that no license shall be required of any ordained priest or minister, or accredited representative of any such priest or minister, the fees for whose ministrations are not the private property of such ordained priest, minister, or accredited representative of such priest or minister. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 43; July 1, 1932, 47 Stat. 562, ch. 366; 1973 Ed., § 47-2342; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(z), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-82. — See note to § 47-2808.

Office of Major and Superintendent of Metropolitan Police abolished. — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of

Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2841. Exposing persons or animals as targets prohibited.

No person shall set up, operate, or conduct any business or device by or in which any person, animal, or living object shall act or be exposed as a target for any ball, projectile, missile, or thing thrown or projected for or in consideration of profit or gain, directly or indirectly. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7,

par. 44; July 1, 1932, 47 Stat. 562, ch. 366; 1973 Ed., § 47-2343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-2842. Council of the District of Columbia may regulate, modify, or eliminate license requirements.

(a) The Council of the District of Columbia is authorized and empowered, when in its discretion such is deemed advisable, to require a license of other businesses or callings not listed in this chapter or Chapter 30 of this title and which, in its judgment, require inspection, supervision, regulation, or any other activity or expenditure by any municipal agencies; and the Council of the District of Columbia is further authorized and empowered to fix the license fee therefor in such amount as, in its judgment, will be not less than the cost to the District of Columbia of such inspection, supervision, regulation, or other activity or expenditure. The Council is further authorized and empowered in its discretion to modify any of the provisions of this chapter or Chapter 30 of this title so far as eliminating therefrom any business or calling in this chapter or Chapter 30 of this title required to be licensed, and the Council is further authorized and empowered in its discretion to raise or lower the amount of the license fee provided in this chapter or Chapter 30 of this title, when in its judgment such increase or decrease is warranted.

(b) The fee for an original or renewal license for motor vehicle driving instructors shall be \$50. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 45; July 1, 1932, 47 Stat. 562, ch. 366; 1973 Ed., § 47-2344; Sept. 14, 1976, D.C. Law 1-82, title I, § 108, 23 DCR 2461; Apr. 3, 1982, D.C. Law 4-97, § 7, 29 DCR 765; Aug. 17, 1991, D.C. Law 9-19, title I, § 111, 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-30, § 7, 38 DCR 4215; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 1-82. — See note to § 47-2808.

Legislative history of Law 4-97. — Law 4-97, the “Motor Vehicle Services Fees and Driver Education Support Act of 1982,” was introduced in Council and assigned Bill No. 4-337, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on January 12, 1982, and January 26, 1982, respectively. Signed by the Mayor on February 9, 1982, it was assigned Act No. 4-155 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-19. — Law 9-19, the “Omnibus Budget Support Temporary Act of 1991,” was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-30. — Law 9-30, the “District of Columbia Motor Vehicle Services Fees Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-163, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-57 and transmitted to both Houses of Congress for its review.

References in text. — Chapter 30 of this title, referred to throughout subsection (a) of this section, was repealed by D.C. Law 5-136.

District of Columbia Drug Manufacture and Distribution Licensure Act of 1990. — See D.C. Law 8-137, codified as §§ 8-131, 8-137 and 33-1001 et seq.

Vague regulation deprives applicant of due process. — Section 60.4 of the Occupational and Professional Licensing Regulations is so vague as to deprive an applicant for reinstatement of due process because it denies

fair notice of the criteria governing reinstatement. *Woods v. District of Columbia Nurses' Examining Bd.*, App. D.C., 436 A.2d 369 (1981).

This section is a proper delegation of power, and regulations promulgated thereunder are valid, provided the determination of the Council is made by reasonable standards and is not arbitrary. *Savage v. District of Columbia*, App. D.C., 54 A.2d 562 (1947), *aff'd sub nom. Koehne v. Matthews*, 169 F.2d 889 (D.C. Cir. 1948).

The purpose of licensing statutes would be frustrated if recovery were permitted for work performed without a license, or when the contract is entered before the issuance of a license, or when some of the preliminary work is done before a license is issued, and the balance of the work is completed after the license has issued. *Cevern, Inc. v. Ferbish*, 120 WLR 2645 (Super. Ct. 1992).

License for regulation, not revenue. — A license required by police regulation, defining a mechanical amusement machine and providing that owners or operators of establishments in which mechanical amusement machines are offered for public use shall obtain and pay an annual license fee as therein specified, was a license for regulation and not for revenue. *Abdow v. District of Columbia*, App. D.C., 108 A.2d 374 (1954).

Rooming houses. — One who occupies a room in consideration for services rendered occupies sleeping accommodations for a "consideration," within regulations defining a rooming house and requiring a license therefor. *Byrd v. District of Columbia*, App. D.C., 43 A.2d 46 (1945).

Under the regulations defining a rooming house and requiring a license therefor, it was not intended that servants be counted toward the more than 4 persons occupying a house. *Byrd v. District of Columbia*, App. D.C., 43 A.2d 46 (1945).

In the absence of a contract to the contrary, one who had only a sleeping room with an alcove used for cooking, in view of District rooming house regulations which define sleeping accommodations, was a roomer, not a tenant of a self-contained apartment unit, and, under the regulations, could not deny the proprietor a key to the room or the right to make reasonable inspections thereof. *Vaughn v. Neal*, App. D.C., 60 A.2d 234 (1948).

Solid waste disposal. — As the business of disposing of solid waste is not a business or calling otherwise listed in licensing statutes, the District of Columbia may fix a license fee for the disposal of such wastes in such amount as will be commensurate with the cost to the District of regulating the disposal of such wastes, but any fee would be illegal to the extent that the revenue therefrom exceeded applicable costs. *Metropolitan D.C. Refuse Haulers Ass'n v. Washington*, 479 F.2d 1191 (D.C. Cir. 1973).

Where licenses issued for collection and transportation of solid wastes in or through the District of Columbia did not cover disposal of solid wastes in the District, separate disposal fee of \$5 per ton was a "license fee" authorized by statute, to the extent that the revenue therefrom was commensurate with the costs of supervision and regulation. *Metropolitan D.C. Refuse Haulers, Ass'n v. Washington*, 479 F.2d 1191 (D.C. Cir. 1973).

License may be required for mechanical amusements designed for use by public such as a mechanical amusement horse and was not discriminatory. *Abdow v. District of Columbia*, App. D.C., 108 A.2d 374 (1954).

Home improvement contracts with unlicensed contractor. — Two home improvement contracts made within 3 days of each other relating to the same house are unenforceable because an unlicensed contractor violated District home improvement regulations by accepting from the homeowner \$3,000 in full payment under the 1st agreement before completion of work thereunder, and the homeowner could recover the \$3,000 from contractor. *Miller v. Peoples Contractors*, App. D.C., 257 A.2d 476 (1969).

Receipt of payment by an unlicensed contractor before completion of work under the contract violates the home improvement regulations and renders the contract void and unenforceable. *Capital Constr. Co. v. Plaza W. Coop. Ass'n*, App. D.C., 604 A.2d 428 (1992).

Section applies to home improvement contracts in which the Department of Housing and Community Development is involved. *Erwin v. Craft*, App. D.C., 452 A.2d 971 (1982).

Cited in *Baker v. District of Columbia*, App. D.C., 494 A.2d 1299 (1985); *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 579 A.2d 713 (1990).

§ 47-2843. Undertakers' licenses; qualifications; examination; license without examination; authority of Mayor and Council; appropriations; definitions.

Repealed. May 22, 1984, D.C. Law 5-84, § 22(a), 31 DCR 1815.

Cross references. — As to licenses for funeral directors, see § 2-2805.

Legislative history of Law 5-84. — Law 5-84, the "D.C. Funeral Services Regulatory Act of 1984," was introduced in Council and assigned Bill No. 5-7 which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 28, 1984 and March 13, 1984, respectively. Signed by the Mayor on March 29, 1984, it was assigned Act No. 5-120 and transmitted to both Houses of Congress for its review.

Repeal of regulations. — Section 22(b) of D.C. Law 5-84 provided that the rules and

regulations governing the licensing of undertakers and apprentice undertakers within the District of Columbia, promulgated March 23, 1954 (c.o. 54-644; 17 DCMR Chapter 23), are repealed.

Board of Funeral Directors and Embalmers abolished. — Section 22(c) of D.C. Law 5-84 provided that the Board of Funeral Directors and Embalmers, established pursuant to paragraph (2) of subsection (d) of § 47-2843, is abolished on the date that the final member of the Board of Funeral Directors established under § 2-2803 takes office.

§ 47-2844. Regulations; suspension or revocation of licenses; bonding of licensees authorized to collect moneys; exemptions.

(a) The Council of the District of Columbia is further authorized and empowered to make any regulations that may be necessary in furtherance of the purpose of this chapter and the Mayor is further authorized and empowered to suspend or revoke any license issued hereunder when, in his judgment, such is deemed desirable in the interest of public decency or the protection of lives, limbs, health, comfort, and quiet of the citizens of the District of Columbia, or for any other reason he may deem sufficient.

(a-1)(1) In accordance with § 1-1509, the Mayor shall revoke the license of any licensee who knowingly has permitted on the licensed premises:

(A) The illegal sale, negotiation for sale, or use of any controlled substance as that term is defined in Chapter 5 of Title 33, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1243; 21 U.S.C. § 801 et seq.); or

(B) The possession, sale, or negotiation for sale of drug paraphernalia in violation of Chapter 6 of Title 33.

(2) The Mayor, by rule, shall establish costs and fines to cover revocation of any license revoked pursuant to paragraph (1) of this subsection.

(b) Notwithstanding any of the provisions of this chapter requiring an inspection as a prerequisite to the issuance of a license, the Council is authorized to provide by regulation that any such inspection shall be made either prior or subsequent to the issuance of a license, but any such license, whether issued prior or subsequent to a required inspection, may be suspended or revoked for failure of the licensee to comply with the laws or regulations applicable to the licensed business, trade, profession, or calling.

(c)(1) The Council may in its discretion require that any class or subclass of licensees licensed under the authority of this chapter to engage in a business, trade, profession or calling involving an express or implied agreement to collect money for others shall give bond to safeguard against financial loss those persons with whom such class or subclass of licensees may so agree.

(2) The bond which may be required by the Council under the authority of this subsection shall be a corporate surety bond in an amount to be fixed by the

Council, but not to exceed \$15,000, conditioned upon the observance by the licensee and any agent or employee of said licensee of all laws and regulations in force in the District of Columbia applicable to the licensee's conduct of the business, trade, profession, or calling licensed under the authority of this chapter, for the benefit of any person who may suffer damages resulting from the violation of any such law or regulation by or on the part of such licensee, his agent, or employee.

(3) Any person aggrieved by the violation of any law or regulation applicable to a licensee's conduct of a business, trade, profession, or calling involving the collection of money for others shall have, in addition to his right of action against such licensee, a right to bring suit against the surety on the bond authorized by this subsection, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the licensee and any agent or employee of said licensee which is in violation of law or regulation in force in the District of Columbia relating to the business, trade, profession, or calling licensed under this chapter; and the provisions of the 2nd, 3rd (except the last sentence thereof), and 5th paragraphs of subsection (b) of § 1-337 shall be applicable to such bond as if it were the bond authorized by the first paragraph of such subsection (b) of § 1-337; provided, that nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished after any prior recovery or recoveries.

(4) This subsection shall not be applicable to persons when engaged in the regular course of any of the following professions or businesses:

(A) Attorneys-at-law;

(B) Persons regularly employed on a regular wage or salary, in the capacity of creditment or in a similar capacity, except as an independent contractor;

(C) Banks and financing and lending institutions;

(D) Common carriers;

(E) Title insurers and abstract companies while doing an escrow business;

(F) Licensed real estate brokers; or

(G) Employees of any class or subclass of licensees required to give bond under this subsection. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 46; July 1, 1932, 47 Stat. 563, ch. 366; July 3, 1956, 70 Stat. 491, ch. 511, § 2; Sept. 1, 1959, 73 Stat. 447, Pub. L. 86-217, § 1; Apr. 22, 1960, 74 Stat. 72, Pub. L. 86-431, § 4; 1973 Ed., § 47-2345; Apr. 30, 1988, D.C. Law 7-104, § 43(e), 35 DCR 147; Mar. 8, 1991, D.C. Law 8-231, § 2, 38 DCR 257; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to administrative procedure, see Chapter 15 of Title 1.

As to prosecution for violation of rules under Public Utilities Act, see § 43-307.

Section references. — This section is referred to in § 47-2837.

Effect of amendments. — D.C. Law 8-231 added (a-1).

Legislative history of Law 7-104. — See note to § 47-2801.

Legislative history of Law 8-231. — Law 8-231, the "General License Law Amendment

Act of 1990," was introduced in Council and assigned Bill No. 8-250, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-314 and transmitted to both Houses of Congress for its review.

There is strong presumption of constitutionality afforded to regulations regulating businesses under police power in interest of public safety, and one attacking such regulations on due process grounds carries the heavy burden of showing that the regulation is unreasonable and has no rational relationship to objective sought to be obtained. *Vanderhoof v. District of Columbia*, App. D.C., 269 A.2d 112 (1970).

Vague regulation deprives applicant of due process. — Section 60.4 of the Occupational and Professional Licensing Regulations is so vague as to deprive an applicant for reinstatement of due process because it denies fair notice of the criteria governing reinstatement. *Woods v. District of Columbia Nurses' Examining Bd.*, App. D.C., 436 A.2d 369 (1981).

General power under this section reasonably implies power to deny initial license applications. *Miller v. District of Columbia Bd. of Appeals & Review*, App. D.C., 294 A.2d 365 (1972).

Temporary suspension of license is not necessarily inconsistent with due process. *Silver v. McCamey*, 221 F.2d 873 (D.C. Cir. 1955).

Due process in license revocation where criminal charges pending. — Revocation of a taxicab operator's license on the ground that he had sexually assaulted and robbed citizen at gunpoint was a violation of due process where a hearing on charges was held while criminal charges based on same alleged offense were pending. *Silver v. McCamey*, 221 F.2d 873 (D.C. Cir. 1955).

Due process hearing regarding nonrenewal of license for ongoing business. — Where a petitioner, whose application for renewal of his license to operate an apartment house was denied, had been conducting a going business under the license, property rights had attached and the Fifth Amendment entitles him to a due process hearing in regard to nonrenewal of his license, even though the licensing regulation itself does not make a hearing a prerequisite to nonrenewal. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Stay of orders. — An order denying an application for renewal of a license to operate an apartment house may be stayed if the petitioner so requests so that a due process hearing may take place. *Holmes v. District of Columbia*

Bd. of Appeals & Review, App. D.C., 351 A.2d 518 (1976).

Suspension or revocation of hacker's license for violation of regulation. — A hacker's license may not be suspended or revoked unless it is concluded after a hearing and upon appropriate findings as required by § 1-1509 that a valid regulation promulgated by the Council under subsection (a) of this section prescribing suspension or revocation has been violated, or unless it can show in the record reliable, probative, and substantial evidence, supporting its own conclusion that suspension or revocation of the particular license will be in the interest of public decency or necessary for the protection of lives, limbs, health, comfort, and quiet of the citizens of the District of Columbia. *Proctor v. Hackers' Bd.*, App. D.C., 268 A.2d 267 (1970).

Denial of apartment building license based on housing code violations. — Where housing code violations have a substantially detrimental effect on the health and safety of the tenants of an apartment building, denial of the owner's license renewal application is justified, particularly in light of the cumulative effect of the numerous violations. *Holmes v. District of Columbia Bd. of Appeals & Review*, App. D.C., 351 A.2d 518 (1976).

Liability of surety on claim arising from violation of regulation. — One should be considered subject to criminal prosecution within the meaning of a regulation providing that a surety on a home improvement bond shall not be liable for any claim unless it arises out of a violation of statute or regulation for which the principal is subject to criminal prosecution if there appear facts that in court's opinion would constitute a prima facie case of violation of any criminal statute committed in connection with an improvement contract or of a pertinent home improvement regulation that carries a criminal penalty. *Gilliam v. Travelers Indem. Co.*, App. D.C., 281 A.2d 429 (1971).

Home improvement contracts with unlicensed contractor. — Two home improvement contracts made within 3 days of each other relating to the same house are unenforceable because an unlicensed contractor violated District home improvement regulations by accepting from the homeowner \$3,000 in full payment under the 1st agreement before completion of work thereunder, and the homeowner could recover the \$3,000 from contractor. *Miller v. Peoples Contractors*, App. D.C., 257 A.2d 476 (1969).

Receipt of payment by an unlicensed contractor before completion of work under the contract violates the home improvement regulations and renders the contract void and unenforceable. *Capital Constr. Co. v. Plaza W. Coop. Ass'n*, App. D.C., 604 A.2d 428 (1992).

Roomer's prevention of proprietor's compliance with rooming house regulations. — A roomer's changing of the lock on her door and refusing to provide the proprietor of the rooming house with a key, thereby preventing proprietor from compliance with regulations relative to inspection and repair and jeopardizing the renewal of proprietor's rooming house license, sufficiently constituted disorderly conduct or nuisance and the violation of obligation of her tenancy to the injury of the proprietor so as to entitle proprietor to possession. *Vaughn v. Neal*, App. D.C., 60 A.2d 234 (1948).

Omission in compilation of taxicab regulation. — Where a regulation governing taxicab drivers was validly enacted, properly published in the District of Columbia Register and accessible to a driver, it would not be declared invalid because of inadvertent omission in its compilation resulting from typographical error. *Pillis v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 366 A.2d 1094 (1976), cert. denied, 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784 (1977).

Substantial evidence supporting suspension of taxicab license. — Substantial evidence supported an order suspending a taxicab driver's license for 3 months on findings that he refused to pick up fare, drove away from

hotel while doorman had his hand on taxicab door handle, and was rude. *Pillis v. District of Columbia Hackers' License Appeal Bd.*, App. D.C., 366 A.2d 1094 (1976), cert. denied, 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784 (1977).

Suspension of taxicab license erroneous. — Where there was no finding that a hacker had violated a valid Public Service Commission taxicab regulation or that suspension of hackers' license was warranted for protection of public health, comfort, or in interest of public decency, nor was there probative or substantial evidence in the record upon which such finding could be made, the suspension of license for refusal to transport patron unless he rode in front seat of taxicab was erroneous. *Proctor v. Hackers' Bd.*, App. D.C., 268 A.2d 267 (1970).

Cited in *Frazier v. Silver*, 185 F. Supp. 625 (D.D.C. 1960); *Brown v. Tobriner*, 218 F. Supp. 754 (D.D.C. 1963); *Village Books, Inc. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 296 A.2d 613 (1972); *Vann v. District of Columbia Bd. of Funeral Dirs. & Embalmers*, App. D.C., 441 A.2d 246 (1982), aff'd, App. D.C., 480 A.2d 688 (1984); *Baker v. District of Columbia*, App. D.C., 494 A.2d 1299 (1985); *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 579 A.2d 713 (1990).

§ 47-2845. Prosecutions.

Prosecutions for violations of any of the provisions of this chapter, or of any section added hereto from time to time by the Council of the District of Columbia, or of any regulation made by the Council under authority of this chapter, shall be on information in the Superior Court of the District of Columbia by the Corporation Counsel of the District of Columbia or any of his assistants. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 47; July 1, 1932, 47 Stat. 563, ch. 366; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2346; Apr. 30, 1988, D.C. Law 7-104, § 43(f), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-104. — See note to § 47-2801.

That premises were licensed as apartment house did not preclude prosecution for violations of rooming house regulations which allegedly occurred on such premises. *District of Columbia v. Basiliko*, App. D.C., 44 A.2d 407 (1945).

Judicial notice of circumstances surrounding adoption of regulations. — The

court could take judicial notice that license regulations applying to rooming houses were adopted during a war emergency when thousands of people were coming to Washington to live in rooming houses and that it was vitally necessary to protect their health. *Savage v. District of Columbia*, App. D.C., 54 A.2d 562 (1947), aff'd sub nom. *Koehne v. Matthews*, 169 F.2d 889 (D.C. Cir. 1948).

§ 47-2846. Penalties.

Any person violating any of the provisions of this chapter, or additions thereto made from time to time by the Council of the District of Columbia, where no specific penalty is fixed, or the violation of any regulation made by the Council under the authority of this chapter, shall upon conviction be fined not more than \$300 or imprisoned for not more than 90 days. Any person failing to file any information required by this chapter, or by any regulation of the Council made under the provisions hereof, or who in filing any such information makes any false or misleading statement, shall upon conviction be fined not more than \$300 or imprisoned for not more than 90 days. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter, shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 48; July 1, 1932, 47 Stat. 563, ch. 366; 1973 Ed., § 47-2347; Oct. 5, 1985, D.C. Law 6-42, § 469(b), 32 DCR 4450; Apr. 30, 1988, D.C. Law 7-104, § 43(g), 35 DCR 147; Mar. 8, 1991, D.C. Law 8-237, § 28, 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-42. — See note to § 47-2808.

Legislative history of Law 7-104. — See note to § 47-2801.

Legislative history of Law 8-237. — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Right to trial by jury. — The penalty imposed by this section is not one as to which there is a constitutional right to a trial by jury. *District of Columbia v. Clawans*, 300 U.S. 617, 57 S. Ct. 660, 81 L. Ed. 843 (1937).

A single offense of using premises for a purpose other than a single family dwelling without an occupancy permit or of operating a rooming house without a license, is a petty offense not involving moral turpitude nor indictable at common law, and therefore a jury trial is not demandable as of right. *Savage v. District of Columbia*, App. D.C., 54 A.2d 562 (1947), *aff'd sub nom. Koehne v. Matthews*, 169 F.2d 889 (D.C. Cir. 1948).

Where accused was charged under 3 separate informations which were consolidated for trial, with using premises without a certificate of

occupancy, operating the premises as a rooming house between certain dates without a license, and using the same premises as a rooming house without a license between certain other dates, jury trial was properly denied. *Savage v. District of Columbia*, App. D.C., 54 A.2d 562 (1947), *aff'd sub nom. Koehne v. Matthews*, 169 F.2d 889 (D.C. Cir. 1948).

Imposition of civil fines by Department of Consumer and Regulatory Affairs. — Department of Consumer and Regulatory Affairs has jurisdiction under this section to impose civil fines in lieu of criminal penalties for violations of regulations issued under the authority of the General License Law. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 579 A.2d 713 (1990).

Although the Department of Consumer and Regulatory Affairs has authority to include a particular regulatory violation among the classes of violations subject to civil fines, where it has not yet done so using the required formal procedures it could not impose a fine for the regulatory violation on an ad hoc basis. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, App. D.C., 579 A.2d 713 (1990).

Fine not excessive. — Where fine of \$150 imposed on one convicted of operating rooming house without a license was only half of the maximum permitted by statute, fine could not be termed excessive as a matter of law on appeal and could not be reduced. *Tillman v. District of Columbia*, App. D.C., 77 A.2d 316 (1950).

Cited in District of Columbia v. Fisher, App. D.C., 258 A.2d 456 (1969); Cullinane v. Geisha House, Inc., App. D.C., 354 A.2d 515, cert. denied, 428 U.S. 923, 96 S. Ct. 3234, 49 L. Ed. 2d 1226 (1976).

§ 47-2847. Saving clause.

Any violation of any provision of law or regulation issued hereunder which is repealed by this chapter and any liability arising under such provisions or regulations may, if the violation occurred or the liability arose prior to such repeal, be prosecuted to the same extent as if this chapter had not been enacted. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 49; July 1, 1932, 47 Stat. 563, ch. 366; 1973 Ed., § 47-2348; Apr. 30, 1988, D.C. Law 7-104, § 43(h), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-104. — See note to § 47-2801.

§ 47-2848. Severability.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 50; July 1, 1932, 47 Stat. 563, ch. 366; 1973 Ed., § 47-2349; Apr. 30, 1988, D.C. Law 7-104, § 43(i), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-104. — See note to § 47-2801.

§ 47-2849. Refund of erroneously-paid fees.

The Mayor of the District of Columbia is authorized to refund any license fee or tax, or portion thereof, erroneously paid or collected under this chapter. (July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 51; July 1, 1932, 47 Stat. 563, ch. 366; 1973 Ed., § 47-2350; Apr. 30, 1988, D.C. Law 7-104, § 43(j), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to refund of fees and taxes, see §§ 47-1317 to 47-1319.

Section references. — This section is referred to in § 1-349.

Legislative history of Law 7-104. — See note to § 47-2801.

Subchapter II. Clean Hands Before Receiving a License or Permit.

§ 47-2861. Definitions.

For the purposes of this subchapter, the term:

(1) "District government" means the Mayor, any executive branch or independent agency excluding the courts, or any board or commission of the government of the District of Columbia.

(2) "License" and "permit" means any license or permit issued by the District government, except that the terms "license" and "permit" shall not include:

(A) Any license or permit required pursuant § 5-1301 et seq.); or

(B) Any license or permit determined by the Mayor to be necessary to secure, remove, or otherwise remedy an unsafe and hazardous condition that presents an immediate threat to public health or safety.

(3) "Mayor" means the Mayor of the District of Columbia.

(4) "Taxes" means any tax or fee, including any penalties or interest associated with such tax or fee, administered by the District of Columbia Department of Finance and Revenue or its successor agency. (May 11, 1996, D.C. Law 11-118, § 2, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-118 — Law 11-118, the "Clean Hands Before Receiving a License or Permit Act of 1996," was introduced in Council and Assigned Bill No. 11-260, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on

first and second readings on January 4, 1996, and February 26, 1996, respectively. Signed by the mayor on February 26, 1996, it was assigned Act No. 11-222 and transmitted to both Houses of Congress for its review. D. C. Law 11-118 became effective on May 11, 1996.

§ 47-2862. Prohibition against issuance of license or permit.

(a) Notwithstanding any other provision of law, the District government shall not issue or reissue any license or permit to any applicant for a license or permit if the applicant owes more than \$100 in outstanding debt to the District as a result of:

(1) Fines, penalties, or interest assessed pursuant to Chapter 29 of Title 6;

(2) Fines or penalties assessed pursuant to Chapter 29A of Title 6;

(3) Fines, penalties, or interest assessed pursuant to Chapter 27 of Title 6; or

(4) Past due taxes.

(b) For purposes of this section, if: (A) the amount of outstanding debt over \$100 is subject to dispute, (B) the applicant has properly and timely appealed the infraction, assessment, tax, or basis for the alleged debt, and (C) the appeal is pending, then the outstanding debt shall not be cause for the District government to deny the issuance or reissuance of any license or permit pursuant to subsection (a) of this section. Nothing in this section shall be construed as allowing the nonpayment of any tax, fee, fine, penalty, or any other debt owed to the District government for which payment is required by other law.

(c) A license or permit shall not be denied pursuant to subsection (a) of this section if the applicant has agreed to a payment schedule to eliminate the outstanding debt, the payment schedule has been agreed to by the District

government, the applicant is complying with the payment schedule, and the payment schedule is otherwise permitted by law. (May 11, 1996, D.C. Law 11-118, § 3, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2863.

Legislative history of Law 11-118. — See note to § 47-2861.

§ 47-2863. Self-certification and enforcement.

(a) This subchapter shall be enforced by self-certification by the applicant for a license or permit, provided that the veracity of the self-certification may be investigated upon the initiative of the District government at any time.

(b) At the time of application for a license or permit the applicant shall certify on a form provided by the District government that the applicant owes no outstanding debt over \$100 to the District government as a result of any fine, fee, penalty, interest, or past due tax as set forth in § 47-2862.

(c) Upon receipt of the applicant's certification that the issuance of the license or permit is not prohibited by this subchapter, the District government shall proceed to consider the application as otherwise provided by law. (May 11, 1996, D.C. Law 11-118, § 4, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-118. — See note to § 47-2861.

§ 47-2864. Penalties.

(a) If the District government determines at any time that an applicant knowingly falsified the certification required by this subchapter, the District government shall:

(1) Proceed immediately to revoke each license or permit, the application for which contains such a falsified certification; and

(2) Fine the applicant \$1,000 for each false certification.

(b) The penalties prescribed by this section shall be applicable only after the applicant is afforded an opportunity for a hearing by the agency which ordinarily would hold a hearing on a revocation of the affected license or permit, and these penalties shall be in addition to any other penalties available by law.

(c) Nothing in this subchapter shall preclude an applicant from submitting a new application for a license or permit. (May 11, 1996, D.C. Law 11-118, § 5, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-118. — See note to § 47-2861.

§ 47-2865. Remedies.

(a) An applicant whose application for a license or permit is either proposed for denial or revocation, or is denied or revoked, because of this subchapter,

shall have the same remedy for appeal as otherwise provided by law for the denial or revocation of the affected license or permit.

(b) Nothing in this subchapter shall be construed as granting a new or separate right of appeal on the merits or validity of fines or penalties, or past due taxes, and any appeal of a denial or revocation pursuant to this subchapter shall not consider the merits or validity of the outstanding debt to the District. (May 11, 1996, D.C. Law 11-118, § 6, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-118. — See note to § 47-2861.

§ 47-2866. Enhanced enforcement.

(a) The Mayor shall provide the Council, not later than January 15, 1997, a report on the proposed implementation of an interagency computer system that, at a minimum, would enable different government agencies, including the Department of Consumer and Regulatory Affairs, the Department of Finance and Revenue, and the Department of Public Works, to maintain and access up-to-date records of outstanding fines, fees, penalties, interest, taxes, and other charges which may be owed by applicants for licenses or permits from the District government. The report shall include a description of at least 2 proposed alternative computer systems, their different capabilities and limitations, preliminary cost estimates to obtain such systems, and timetables for acquisition and implementation.

(b) For purposes of administering and enforcing any tax law in the District of Columbia, the Mayor may require any owner, occupant, or transferor of real property and any taxpayer to provide a social security number or other tax identification number on any return or in a form and manner as the Mayor prescribes. Any use or disclosure of these numbers shall be for tax administration and enforcement purposes only. (May 11, 1996, D.C. Law 11-118, § 7, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 11-118. — See note to § 47-2861.

CHAPTER 29. ADMISSION TO LICENSED PLACES; POSTING OF PRICE SCALE.

Sec.

- 47-2901. Discrimination because of race or color prohibited in licensed places of amusement; penalty.
- 47-2902. Discrimination because of race or color prohibited in licensed hotels and restaurants; penalty.
- 47-2903. Increase of penalty provisions in § 47-2901.
- 47-2904. Recovery of fine; payment of moiety.
- 47-2905. Posting of price scale.
- 47-2906. Penalty for failure to post price scale.
- 47-2907. Restaurants, hotels, barber shops, bathing houses, ice cream saloons, and soda fountains required to serve well-behaved persons.

Sec.

- 47-2908. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to post price list.
- 47-2909. Transmission of price list to Assessor.
- 47-2910. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to serve well-behaved persons at common prices.
- 47-2911. Failure to post or file price list; charging other or greater price; failure to serve any well-behaved person; penalty; enforcement.

§ 47-2901. Discrimination because of race or color prohibited in licensed places of amusement; penalty.

It shall not be lawful for any person or persons who shall have obtained a license from this Corporation for the purpose of giving a lecture, concert, exhibition, circus performance, theatrical entertainment, or for conducting a place of public amusement of any kind, to make any distinction on account of race or color, as regards the admission of persons to any part of the hall or audience room where such lecture, concert, exhibition, or other entertainment may be given; provided, that any person applying shall pay the regular price charged for admission to such part of the house as he or she may wish to occupy, and shall conduct himself or herself in an orderly and peaceable manner, while on the premises; and any person or persons offending herein shall forfeit and pay to this Corporation for each offense a fine of not less than \$10 nor more than \$20 to be collected and applied as are other fines. That all acts or parts of acts inconsistent with this section be, and the same are hereby repealed. (June 10, 1869, ch. 36, p. 22, Corp. Laws of Wash., 66th Council, §§ 1, 2; 1973 Ed., § 47-2901; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to prohibition of discriminatory practices in public accommodations, see § 1-2519.

As to increase in penalty provided by section, see § 47-2903.

Section references. — This section is referred to in §§ 47-2903 and 47-2904.

Extension of section's area of applicability. — Order No. 56-874, dated May 3, 1956, issued by Commissioners of the District of Columbia, extended the area of applicability of this section to the District of Columbia outside the limits of the City of Washington.

District antidiscrimination laws are municipal ordinances or police regulations, penal in character, and do not give rise to a civil action for damages. *Tynes v. Gogos*, App. D.C., 144 A.2d 412 (1958).

"Persons" as used in this section applies to corporations as well as natural persons. *Central Amusement Co. v. District of Columbia*, App. D.C., 121 A.2d 865 (1956).

Bowling alley was a place of "public amusement" within this section. *Central Amusement Co. v. District of Columbia*, App. D.C., 121 A.2d 865 (1956).

§ 47-2902. Discrimination because of race or color prohibited in licensed hotels and restaurants; penalty.

(a) It shall not be lawful for the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample room, tippling house, saloon, or eating house, to refuse to receive, admit, entertain, and supply any quiet and orderly person or persons, or to exclude any person or persons on account of race or color.

(b) If the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample room, tippling house, saloon, or eating house, or any agent acting for him or them, shall violate or offend against the provisions of §§ 47-2902 to 47-2904, he or they shall be subject to a fine of not less than \$50 for each violation thereof, to be recovered in an action of debt, in the name of the Mayor and Council of the District of Columbia, on information filed before any District of Columbia court. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §§ 1, 2; 1973 Ed., § 47-2902; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to prohibition of discriminatory practices in public accommodations, see § 1-2519.

Section references. — This section is referred to in §§ 47-2903 and 47-2904.

Intent of section. — This section was directed solely at remedying racial discrimination in the District of Columbia. *D.T. Corp. v. District of Columbia ABC Bd.*, App. D.C., 407 A.2d 707 (1979).

This section does not mandate nondiscriminatory treatment based on age. *D.T. Corp. v. District of Columbia ABC Bd.*, App. D.C., 407 A.2d 707 (1979).

And it cannot be construed as requiring equal services to minors. *D.T. Corp. v. District of Columbia ABC Bd.*, App. D.C., 407 A.2d 707 (1979).

District antidiscrimination laws are municipal ordinances or police regulations, penal in character, and do not give rise to a civil action for damages. *Tynes v. Gogos*, App. D.C., 144 A.2d 412 (1958).

Common-law right to refuse service. — In the absence of constitutional or statutory rights, the common-law rule that a restaurant owner has the right to arbitrarily refuse service to any guest still controls. *Feldt v. Marriott Corp.*, App. D.C., 322 A.2d 913 (1974).

This section does not prevent a restaurant from having reasonable requirements as to dress of its customers, such as a requirement that all male customers wear coats and ties or that all customers wear shoes. *Feldt v. Marriott Corp.*, App. D.C., 322 A.2d 913 (1974).

§ 47-2903. Increase of penalty provisions in § 47-2901.

In lieu of the penalties provided in § 47-2901 for the offense therein mentioned, the penalty mentioned in § 47-2902(b) is hereby substituted, and hereafter shall be applicable to and enforced, as herein provided, for any violation of § 47-2901. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, § 3; 1973 Ed., § 47-2903; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2902 and 47-2904.

§ 47-2904. Recovery of fine; payment of moiety.

After the final conviction of any party for the violation of any of the provisions of §§ 47-2901 to 47-2903, and the recovery of the fine, a sum equal in amount to one-half of such fine shall be paid, and warrant drawn in the usual form out of the General Fund, to the party who may have been the informer in any such case. That all acts or parts of acts that are inconsistent with the provisions of §§ 47-2902 to 47-2904 are hereby repealed. (Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §§ 4, 5; 1973 Ed., § 47-2904; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2902.

§ 47-2905. Posting of price scale.

Keepers or owners of restaurants, eating houses, barrooms, or ice cream saloons, or soda fountains, at which food, refreshments, or drinks are sold, or keepers of barber shops and bathing houses, must put in a conspicuous place in their restaurants, eating houses, ice cream saloons, or places for the sale of soda water, a scale of the prices for which the different articles they have for sale will be furnished. (Leg. Assem., June 20, 1872, § 1; 1973 Ed., § 47-2905; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2906 and 47-2907.

Partial repeal of section as to restaurants. — The 1873 act of the Legislative Assembly of District of Columbia, codified in §§ 47-2908 to 47-2911, repealed the act of 1872, codified in this section and §§ 47-2906 and 47-2907, with respect to restaurants. *John R. Thompson Co. v. District of Columbia*, 214 F.2d 210 (D.C. Cir. 1954).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

§ 47-2906. Penalty for failure to post price scale.

Persons violating the provisions of § 47-2905 are to be deemed guilty of misdemeanor, and, upon conviction in a court having jurisdiction, are to be fined by the court not less than \$20, and not more than \$50. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of § 47-2905, or any rules or regulations issued under the authority of this section, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of § 47-2905 shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Leg. Assem., June 20, 1872, § 2; 1973 Ed., § 47-2906; Oct. 5, 1985, D.C. Law 6-42, § 484, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2907.

Legislative history of Law 6-42. — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was

introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed

by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Partial repeal of section as to restaurants. — The 1873 act of the Legislative Assembly of District of Columbia, codified in §§ 47-2908 to 47-2911, repealed the act of 1872, codified in this section and §§ 47-2905 and 47-2907, with respect to restaurants. *John R. Thompson Co. v. District of Columbia*, 214 F.2d 210 (D.C. Cir. 1954).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

§ 47-2907. Restaurants, hotels, barber shops, bathing houses, ice cream saloons, and soda fountains required to serve well-behaved persons.

Any restaurant keeper or proprietor, any hotel keeper or proprietor, proprietors or keepers of ice cream saloons or places where soda water is kept for sale, or keepers of barber shops and bathing houses, refusing to sell or wait upon any respectable well-behaved person, without regard to race, color, or previous condition of servitude, or any restaurant, hotel, ice cream saloon or soda fountain, barber shop or bathing house keepers, or proprietors, who refuse under any pretext to serve any well-behaved, respectable person, in the same room, and at the same prices as other well-behaved and respectable persons are served, shall be deemed guilty of a misdemeanor, and upon conviction in a court having jurisdiction, shall be fined \$100, and shall forfeit his or her license as keeper or owner of a restaurant, hotel, ice cream saloon, or soda fountain, as the case may be, and it shall not be lawful for the Assessor or any officer of the District of Columbia to issue a license to any person or persons, or to their agent or agents, who shall have forfeited their license under the provisions of §§ 47-2905 to 47-2907, until a period of 1 year shall have elapsed after such forfeiture. (Leg. Assem., June 20, 1872, § 3; 1973 Ed., § 47-2907; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to prohibition of discriminatory practices in public accommodations, see § 1-2519.

Office of Assessor abolished. — See note to § 47-413.

Partial repeal of section as to restaurants. — The 1873 act of the Legislative Assembly of District of Columbia, codified in §§ 47-2908 to 47-2911, repealed the act of 1872 codified in §§ 47-2905 to 47-2907, with respect to restaurants. *John R. Thompson v. District of Columbia*, 214 F.2d 210 (D.C. Cir. 1954).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrim-

ination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

District antidiscrimination laws are municipal ordinances or police regulations, penal in character, and do not give rise to a civil action for damages. *Tynes v. Gogos*, App. D.C., 144 A.2d 412 (1958).

§ 47-2908. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to post price list.

The proprietor or proprietors, or keeper or keepers, of every licensed restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, or establishment in the District of Columbia, shall put up, or cause to be kept up, and to be regularly kept up, or cause to be kept up, in 2 conspicuous places in the chief room or rooms of his, her, or their restaurant, eating house, barroom, ice cream saloon, or soda fountain room, and in 1 conspicuous place in each small or private room, if any, used in connection with said restaurant, eating house, barroom, sample room, ice cream saloon, and soda fountain room, for the accommodation of guests, visitors, or customers thereat, printed cards or papers, on which shall be distinctly printed the common or usual price for which each article or thing kept in any of said places or establishments to be eaten or drank therein is or may be commonly sold, or the price or prices for which the articles or things are or may be commonly or usually furnished to persons calling for, desiring, or receiving the same or any part or parts thereof, and no greater price or prices than those mentioned or contained on said cards or printed papers shall be asked for, demanded, or received from any person or persons for any of the articles or things kept in any manner for sale in any of the places or establishments aforesaid, either by said proprietor or proprietors, keeper or keepers, or by their agents, employees, or anyone acting in any manner for them. (3 Leg. Assem., June 26, 1873, ch. 46, § 1; 1973 Ed., § 47-2908; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2911.

Sections 47-2908 to 47-2911 were not repealed by any act of Congress. District of Columbia v. John R. Thompson Co., App. D.C., 81 A.2d 249 (1951), modified in part, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953), aff'd, 214 F.2d 210 (1954).

Nor otherwise modified, repealed, or altered. — Sections 47-2908 to 47-2911 prescribing in terms of civil rights the duties of restaurateurs to members of public have not been modified, altered, or repealed by nonuse and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

And they have survived all subsequent changes in the government of the District and remain a part of governing body of laws applicable to the District. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

§ 47-2909. Transmission of price list to Assessor.

On or before the first day of November in each year the proprietor or proprietors, keeper or keepers, of each licensed restaurant, eating house, barroom, sample room, ice cream saloon, and soda fountain room or establish-

ment in said District, as aforesaid, shall transmit to the Assessor of said District a printed copy of the usual or common price or prices of articles or things kept for sale by him, her, or them, as aforesaid, which shall be filed by the Assessor in his office, and unless he is notified of changes therein, the copy transmitted and filed in said office may be used in any case or proceeding under §§ 47-2909 to 47-2911 as prima facie evidence of the common or usual prices charged for the articles or things mentioned therein by the proprietor or proprietors, keeper or keepers, of any of the places or establishments aforesaid, and in a failure of any proprietor or proprietors, keeper or keepers, to transmit the copy aforesaid, the Assessor shall notify such person of such failure, and require such copy to be forthwith transmitted to him. (3 Leg. Assem., June 26, 1873, ch. 46, § 2; 1973 Ed., § 47-2909; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2911.

Office of Assessor abolished. — See note to § 47-413.

Sections 47-2908 to 47-2911 were not repealed by any act of Congress. District of Columbia v. John R. Thompson Co., App. D.C., 81 A.2d 249 (1951), modified in part, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953), aff'd, 93 U.S. App. D.C. 373, 214 F.2d 210 (1954).

Nor otherwise modified, repealed, or altered. — Sections 47-2908 to 47-2911 prescribing in terms of civil rights the duties of restaurateurs to members of public have not been modified, altered or repealed by nonuse and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. District of Columbia v. John R. Thompson Co.,

346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

And they have survived all subsequent changes in the government of the District and remain a part of governing body of laws applicable to the District. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

§ 47-2910. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to serve well-behaved persons at common prices.

The proprietor or proprietors, keeper or keepers, of any licensed restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room shall sell at and for the usual or common prices charged by him, her, or them, as contained in said printed cards or papers, any article or thing kept for sale by him, her, or them to any well-behaved and respectable person or persons who may desire the same, or any part or parts thereof, and serve the same to such person or persons in the same room or rooms in which any other well-behaved person or persons may be served or allowed to eat or drink in said place or establishment; provided, that persons of different sexes shall not be accommodated in the same room or rooms unless they accompany each other, or call for any articles or things together, or unless said room or rooms are ordinarily used indiscriminately by persons of both sexes. (3 Leg. Assem., June

26, 1873, ch. 46, § 3; 1973 Ed., § 47-2910; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-2909 and 47-2911.

Sections 47-2908 to 47-2911 were not repealed by any act of Congress. District of Columbia v. John R. Thompson Co., App. D.C., 81 A.2d 249 (1951), modified in part, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953), aff'd, 93 U.S. App. D.C. 373, 214 F.2d 210 (1954).

Nor otherwise modified, repealed, or altered. — Sections 47-2908 to 47-2911 prescribing in terms of civil rights the duties of restaurateurs to members of public have not been modified, altered or repealed by nonuse and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

And they have survived all subsequent changes in the government of the District

and remain a part of governing body of laws applicable to the District. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

District antidiscrimination laws are municipal ordinances or police regulations, penal in character, and do not give rise to a civil action for damages. Tynes v. Gogos, App. D.C., 144 A.2d 412 (1958).

§ 47-2911. Failure to post or file price list; charging other or greater price; failure to serve any well-behaved person; penalty; enforcement.

If the proprietor or proprietors, keeper or keepers, of any place or establishment, as aforesaid, shall neglect or refuse to put up printed cards or papers of prices as provided for in § 47-2908, or shall refuse to send a copy or duplicate to the Assessor as provided in § 47-2909, or shall place or cause to be placed on said card or paper, or permit to be placed thereon any price or prices other or greater than that for which any article or thing is, or may be, usually and commonly sold or furnished by him, her, or them, or different from or more than is usually or commonly demanded or received therefor by him, her, or them, or by his, her, or their authority or direction, or shall demand or receive in any manner, or under any circumstances, or for any reason or pretence, in person or by any employee or agent, from any person or persons aforesaid, any sum or prices different or greater than is contained on said cards or papers, or than is usually and commonly asked or received for any article or thing kept for sale as aforesaid, or shall refuse or neglect, in person or by his, her, or their employee or agent, directly or indirectly, to accommodate any well-behaved and respectable person as aforesaid in his, her, or their restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, or shall refuse or neglect to sell at the common and usual prices aforesaid in and at his, her, or their restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, to any such person or persons therein at said prices, any article or thing kept therein and in the room or rooms in which such articles or things are ordinarily sold and served or allowed to be eaten or drank, or shall at any time or in any way or manner, or under any circumstances, or for any reason, cause, or pretext, fail, decline, object, or refuse to treat any person or

persons aforesaid as any other well-behaved and respectable person or persons are treated at said restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, he, she, or they, on conviction of a disregard or violation of any provision, regulation, or requirement of §§ 47-2908, 47-2909, 47-2910, and 47-2911 or any part of §§ 47-2908, 47-2909, 47-2910, and 47-2911 contained, shall be fined \$100, and forfeit his, her, or their license; and it shall not be lawful for any officer of the District to issue a license to any person or persons, or their agent or agents, whose license may be forfeited under the provisions of §§ 47-2908, 47-2909, 47-2910, and 47-2911 for 1 year after such forfeiture; provided, that the provisions of §§ 47-2908, 47-2909, 47-2910, and 47-2911 shall be enforced by information in the Superior Court of the District of Columbia, filed on behalf thereof by its proper attorney or attorneys, subject to appeal to the District of Columbia Court of Appeals in the same manner as is now or may be hereafter provided for the enforcement of the District fines and penalties under ordinances and law. (3 Leg. Assem., June 26, 1873, ch. 46, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 47-2911; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-2909.

Office of Assessor abolished. — See note to § 47-413.

Sections 47-2908 to 47-2911 were not repealed by any act of Congress. District of Columbia v. John R. Thompson Co., App. D.C., 81 A.2d 249 (1951), modified in part, 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953), aff'd, 93 U.S. App. D.C. 373, 214 F.2d 210 (1954).

Nor otherwise modified, repealed, or altered. — Sections 47-2908 to 47-2911 prescribing in terms of civil rights the duties of restaurateurs to members of public have not been modified, altered or repealed by nonuse and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

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Effect of 1901 Code on antidiscrimination laws. — The 1872 and 1873 antidiscrimination laws, §§ 47-2905 to 47-2911, governing restaurants in District of Columbia are police regulations and acts relating to municipal affairs within the District of Columbia Code of 1901 saving such regulations and acts from repeal. District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S. Ct. 1007, 97 L. Ed. 1480 (1953).

District antidiscrimination laws are municipal ordinances or police regulations, penal in character, and do not give rise to a civil action for damages. Tynes v. Gogos, App. D.C., 144 A.2d 412 (1958).

CHAPTER 30. PRIVATE EMPLOYMENT AGENCY LICENSES.

Sec.
47-3001 to 47-3009. [Repealed].

Sec.
47-3010, 47-3011. [Repealed].

§§ 47-3001 to 47-3009. License requirement; definitions; bond; registers; receipts; location of agency; application for employment by minor; inspection; false information; exceptions from license requirements.

Repealed. Mar. 13, 1985, D.C. Law 5-136, § 19(b), 31 DCR 5727.

Legislative history of Law 5-136. — Law 5-136, the "Employment Services Licensing and Regulation Act of 1984," was introduced in Council and assigned Bill No. 5-280, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on

first and second readings on September 12, 1984 and October 9, 1984, respectively. Signed by the Mayor on October 25, 1984, it was assigned Act No. 5-194 and transmitted to both Houses of Congress for its review.

§§ 47-3010, 47-3011. Employment contract; character of employer; fraud.

Repealed. Mar. 13, 1985, D.C. Law 5-136, § 19(a), 31 DCR 5727.

Legislative history of Law 5-136. — See note to § 47-3001.

CHAPTER 31. CONSUMER TRANSMISSION OF MONEY ACT.

Sec.	Sec.
47-3101. Definitions.	47-3109. Annual license fee.
47-3102. License required.	47-3110. Agent.
47-3103. Exemptions.	47-3111. Liability of licensees.
47-3104. Qualifications.	47-3112. Disclosure of responsibility.
47-3105. Applications.	47-3113. Maximum charge.
47-3106. Accompanying fee, statements and bond.	47-3114. Revocation of license investigations.
47-3107. Granting of license; investigations.	47-3115. Hearings.
47-3108. Maintenance of bond or securities.	47-3116. Penalties.
	47-3117. Severability.

§ 47-3101. Definitions.

For the purpose of this chapter:

(1) The term “check” means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money other than a traveler’s check.

(2) The term “deliver” means to transfer possession of a check to the first person who, in payment for same, makes or purports to make a remittance of or against the face amount thereof whether or not the deliverer also charges a fee in addition to the face amount and whether or not the deliverer signs the check.

(3) The term “licensee” means a person duly licensed by the Mayor under this chapter.

(4) The term “Mayor” means the Mayor of the District of Columbia or his designee.

(5) The term “person” means any individual, partnership, association, joint stock association, trust, or corporation but does not include the United States government, the government of the District of Columbia, or the United States Postal Service.

(6) The term “personal money order” means any instrument for the transmission or payment of money which is signed by the purchaser or remitter whether or not he appoints the seller of the money order as his agent for the receipt, transmission, or handling of money and whether or not such instrument is also signed by some other person in addition to the purchaser or remitter.

(7) The term “sell” means to sell, to issue, or to deliver a check. (1973 Ed., § 47-3201; Oct. 4, 1978, D.C. Law 2-114, § 2, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — Law 2-114, the “District of Columbia Consumer Transmission of Money Act of 1978,” was introduced in Council and assigned Bill No. 2-210, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June

13, 1978 and June 27, 1978, respectively. Signed by the Mayor on July 21, 1978, it was assigned Act No. 2-242 and transmitted to both Houses of Congress for its review.

Delegation of authority pursuant to Law 2-114. — See Mayor’s Order 86-127, August 8, 1986.

§ 47-3102. License required.

No person, except those specifically exempted in § 47-3103 or agents of a licensee as provided in § 47-3110, shall engage in the business of selling checks, as a service or for a fee or other consideration, in the District of Columbia without having first obtained a license under the provisions of this chapter. Any person engaged in such business on the effective date of this chapter may continue to engage therein without a license until the Mayor has acted upon his application for a license; except, that such application must be filed within 60 days after the effective date of this chapter. (1973 Ed., § 47-3202; Oct. 4, 1978, D.C. Law 2-114, § 3, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3103. Exemptions.

This chapter does not apply to any of the following:

(1) Banks, credit unions, trust companies, building and loan associations, and savings and loan associations organized under the laws of the United States or of the District of Columbia or authorized to do business in the District of Columbia, and the United States Postal Service; and

(2) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph. (1973 Ed., § 47-3203; Oct. 4, 1978, D.C. Law 2-114, § 4, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3102.

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3104. Qualifications.

To qualify for a license under this chapter, an applicant must meet the following requirements:

(1) The applicant must have a net worth of at least \$100,000 computed according to generally accepted accounting principles;

(2) The financial responsibility, financial condition, and business experience of the applicant must be such as to reasonably warrant the belief that applicant's business will be conducted honestly and carefully to the extent deemed advisable by the Mayor as set forth in § 47-3107. (1973 Ed., § 47-3204; Oct. 4, 1978, D.C. Law 2-114, § 5, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3107.

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3105. Applications.

Each application for a license under this chapter shall be made in writing and under oath to the Mayor in such form as he may prescribe. The application shall state the full name and business address of:

- (1) The proprietor, if the applicant is an individual;
- (2) Each member, if the applicant is a partnership or association;
- (3) Each trustee or other officer, if the applicant is a trust; or
- (4) The corporation and each officer and director thereof, if the applicant is a corporation. (1973 Ed., § 47-3205; Oct. 4, 1978, D.C. Law 2-114, § 6, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3106. Accompanying fee, statements and bond.

(a) Each application for a license shall be accompanied by:

(1) An investigation fee of \$250 which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) Financial statements reasonably satisfactory to the Mayor;

(3) A list of all locations, including agents and their addresses, where business is conducted in the District of Columbia;

(4) A surety bond issued by a bonding company or insurance company, authorized to do business in the District of Columbia, or other security as provided in subsection (b) of this section, in the principal sum of \$50,000. Each applicant shall submit proof of security to the Mayor prior to the issuance of the renewal license for any calendar year in the amounts provided herein. For a licensee with average total outstanding and unpaid checks for the previous year of not over \$50,000, the bond shall be \$50,000. For a licensee with average total outstanding and unpaid checks for the previous year in excess of \$50,000 but less than \$75,000, the bond shall be \$75,000. For a licensee with average total outstanding and unpaid checks for the previous license year in excess of \$75,000, the bond shall be \$100,000. The bond shall be in a form satisfactory to the Mayor and shall run to the District of Columbia for the benefit of any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission, and payment of money in connection with the sale of checks in the District of Columbia. Such claimants, against the applicant or his agents, may themselves bring suit directly on the bond or the Corporation Counsel may bring suit thereon in behalf of such claimants either in 1 action or successive actions. The aggregate liability of the surety in no event shall exceed the principal sum of the bond; except that the surety shall have the right to cancel such bond upon giving not less than 30 days written notice to the Mayor, but such cancellation shall not release the surety from any liability that may arise with respect to obligations of the applicant outstanding on or prior to the day that such bond is canceled.

(b) In lieu of a corporate surety bond or bonds or of any portion of the principal thereof as required by subsection (a)(4) of this section, the applicant may deposit with the Mayor or with such banks or trust companies or national banks in the District of Columbia as such applicant may designate and the Mayor may approve a deposit in the nature of a cash bond, stocks, interest bearing bonds, notes, debentures, or other forms of security as may be determined by the Mayor in an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The security shall be deposited as mentioned above and held to secure the same obligations as would the surety bond but the depositor shall be entitled to receive all interest and dividends thereon and shall have the right, with the approval of the Mayor, to substitute other security for those deposited. (1973 Ed., § 47-3206; Oct. 4, 1978, D.C. Law 2-114, § 7, 25 DCR 1985; Dec. 21, 1979, D.C. Law 3-41, § 2(a), (b), 26 DCR 2078; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3108.

Legislative history of Law 2-114. — See note to § 47-3101.

Legislative history of Law 3-41. — Law 3-41, the "District of Columbia Consumer Transmission of Money Act of 1978 Amendments of 1979," was introduced in Council and

assigned Bill No. 3-143, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on September 25, 1979 and October 9, 1979, respectively. Signed by the Mayor on October 30, 1979, it was assigned Act No. 3-113 and transmitted to both Houses of Congress for its review.

§ 47-3107. Granting of license; investigations.

(a) Upon the filing of an application in due form, including the required fee and accompanying documents, the Mayor shall issue to the applicant a license to engage in the selling of checks in the District of Columbia, unless the Mayor finds that the qualifications prescribed by subsection (b) of this section and by § 47-3104 have not been met.

(b) The financial responsibility, conditions, and business experience of the applicant or licensee must be such as to warrant the belief that the applicant's business will be conducted honestly and carefully. The Mayor may investigate and consider the qualifications of the applicant or licensee (including the officers and directors of the applicant) in determining whether this qualification has been met. (1973 Ed., § 47-3207; Oct. 4, 1978, D.C. Law 2-114, § 8, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3104.

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3108. Maintenance of bond or securities.

After a license has been granted, the licensee shall maintain said bond or securities in the amount prescribed by § 47-3106(a)(4) as follows:

(1) Each licensee shall file quarterly reports with the Mayor setting forth the locations at which he sells checks in the District of Columbia as of January 1st, April 1st, July 1st, and October 1st of each year the report for each such date is due on or before the 15th day thereafter.

(2) If the Mayor shall at any time determine that the bond or securities aforesaid are insecure, deficient in amount, exhausted in whole or part or if the surety on the bond shall have notified the Mayor of its intention to cancel the bond, he shall, by written order, require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this chapter. Such order is to be complied with within 30 days following service thereof upon the licensee. (1973 Ed., § 47-3208; Oct. 4, 1978, D.C. Law 2-114, § 9, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3109. Annual license fee.

The Mayor shall establish an annual license fee. (1973 Ed., § 47-3209; Oct. 4, 1978, D.C. Law 2-114, § 10, 25 DCR 1985; Dec. 21, 1979, D.C. Law 3-41, § 2(c), 26 DCR 2078; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

Legislative history of Law 3-41. — See note to § 47-3106.

§ 47-3110. Agent.

A licensee may conduct his business at 1 or more locations within the District of Columbia and through or by means of such agents as the licensee may from time to time designate or appoint. No license under this chapter shall be required of any agent of a licensee. (1973 Ed., § 47-3210; Oct. 4, 1978, D.C. Law 2-114, § 11, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3102.

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3111. Liability of licensees.

Each licensee shall be liable for the payment of all checks which he sells in the District of Columbia, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the laws governing negotiable instruments in the District of Columbia. A licensee who sells a check, whether directly or through an agent, upon which he is not designated as the maker or drawer, shall nevertheless have the same liabilities with respect thereto as if he had signed the same as the drawer thereof. (1973 Ed., § 47-3211; Oct. 4, 1978, D.C. Law 2-114, § 12, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3112. Disclosure of responsibility.

Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon. (1973 Ed., § 47-3212; Oct. 4, 1978, D.C. Law 2-114, § 13, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3113. Maximum charge.

No licensee or his agent shall charge a fee for selling or cashing checks in excess of 1% of the face amount thereof, or \$.50, whichever is greater. (1973 Ed., § 47-3213; Oct. 4, 1978, D.C. Law 2-114, § 14, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3114. Revocation of license investigations.

The Mayor may revoke a license on the same grounds on which he may refuse to grant a license or for violation of any provision of this chapter. In furtherance of the foregoing, the Mayor, if he has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books, and records of the licensee. (1973 Ed., § 47-3214; Oct. 4, 1978, D.C. Law 2-114, § 15, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3115. Hearings.

No license shall be denied, suspended, or revoked except after notice and an opportunity to be heard. Hearings under this section shall be governed by § 1-1509. (1973 Ed., § 47-3215; Oct. 4, 1978, D.C. Law 2-114, § 16, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

§ 47-3116. Penalties.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, shall be fined not more than \$1,000, or imprisoned for not more than 1 year, or both. Prosecutions shall be made by the Corporation Counsel in the Superior Court of the District of Columbia. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters

I through III of Chapter 27 of Title 6. (1973 Ed., § 47-3216; Oct. 4, 1978, D.C. Law 2-114, § 17, 25 DCR 1985; Oct. 5, 1985, D.C. Law 6-42, § 413, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

§ 47-3117. Severability.

The provisions of this chapter are severable and if any provision, sentence, clause, section, or part is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances such holding shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of the chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid, unconstitutional or applicable provision, sentence, clause, section, or part had not been included herein and if the person or circumstances to which the chapter or any part is inapplicable had been specifically exempted. (1973 Ed., § 47-3217; Oct. 4, 1978, D.C. Law 2-114, § 18, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-114. — See note to § 47-3101.

CHAPTER 31A. USE OF CONSUMER IDENTIFICATION INFORMATION.

Sec.

47-3151. Definitions.

47-3152. Use of credit card information in connection with payment by check.

47-3153. Use of consumer identification information in connection with credit card payments.

Sec.

47-3154. Penalties.

§ 47-3151. Definitions.

For the purposes of this chapter, the term:

(1) "Drawer" means an individual who makes or signs a check or other draft, but not including a credit or debit card sales draft.

(2) "Sale" means any:

(A) Offer, or attempt to sell merchandise, real property, or intangibles for cash or credit; or

(B) Service or offer for service which relates to any person, building, or equipment.

(3) "Service" means any:

(A) Building repair or improvement service;

(B) Subprofessional service;

(C) Repair of a motor vehicle, home appliance, or other similar commodity; or

(D) Repair, installation, or other servicing of any plumbing, heating, electrical, or mechanical device. (Mar. 11, 1992, D.C. Law 9-69, § 2, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 9-69. — Law 9-69, the "Use of Consumer Identification Information Act of 1991," was introduced in Council and assigned Bill No. 9-111, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and

second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-120 and transmitted to both Houses of Congress for its review.

§ 47-3152. Use of credit card information in connection with payment by check.

No person shall, as a condition of accepting a check as payment for a sale of goods or services, require that a drawer produce a credit card as a means of identification or for any other purpose. (Mar. 11, 1992, D.C. Law 9-69, § 3, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3154.

Temporary amendment of section. — Section 2 of D.C. Law 11-231 amended the section to read as follows:

"(a) No person shall imprint the information contained on a drawer's credit card or other form of identification on the face or on the back of a check used as payment for goods or services, nor shall any person record in any manner the number of a drawer's credit card or other form of identification as a condition to

accepting a check as payment for the sale of goods or services. Nothing herein shall be deemed to prohibit a person from requesting, but not requiring, that a drawer voluntarily display a credit card or other form of identification as an additional form of identification, provided that the only information recorded concerning the credit card or other form of identification is the type of credit card or other form of identification so displayed and its expiration date where applicable.

"(b) Where a second form of identification is

requested, the merchant must inform the purchaser of the range of acceptable second forms of identification.”

Section 4(b) of D.C. Law 11-231 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Check Identification Fraud Prevention Emergency Amendment Act of 1996 (D.C. Act 11-451, December 10, 1996, 44 DCR 120).

For temporary amendment of section, see § 2 of the Check Identification Fraud Prevention Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-14, March 3, 1997, 44 DCR 1749).

Legislative history of Law 9-69. — See note to § 47-3151.

Legislative history of Law 11-231. — Law 11-231, the “Check Identification Fraud Prevention Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-944. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 17, 1996, it was assigned Act No. 11-463 and transmitted to both Houses of Congress for its review. D.C. Law 11-231 became effective on April 9, 1997.

§ 47-3153. Use of consumer identification information in connection with credit card payments.

(a) Except as provided in subsection (b) of this section, no person shall, as a condition of accepting a credit card as payment for a sale of goods or services, request or record the address or telephone number of a credit card holder on the credit card transaction form.

(b) A person may record the address or telephone number of a credit card holder if the information is necessary for the shipment, delivery, or installation of consumer goods, or special orders of consumer goods or services. (Mar. 11, 1992, D.C. Law 9-69, § 4, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3154.

Legislative history of Law 9-69. — See note to § 47-3151.

§ 47-3154. Penalties.

(a) Any person aggrieved by a violation of § 47-3152 or § 47-3153 shall be entitled to institute an action to recover actual damages or \$500, whichever is greater, and for injunctive relief against any person who has engaged in any act in violation of this chapter.

(b) In the event the aggrieved party prevails, reasonable attorney’s fees and court costs may be awarded in addition to any damages awarded.

(c) This section shall not be construed to impose liability on any employee or agent of an employer when that employee or agent has acted in accordance with the direction of his or her employer. (Mar. 11, 1992, D.C. Law 9-69, § 5, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 9-69. — See note to § 47-3151.

CHAPTER 32. HOTEL OCCUPANCY TAX.

Subchapter I. General Provisions.

Sec.

- 47-3201. Definitions.
- 47-3202. Imposition and rate of tax.
- 47-3203. Exemptions.
- 47-3204. Returns and payment of tax.
- 47-3205. Incorporation of certain existing D.C. Code sections.
- 47-3206. Washington Convention Center Authority Fund.
- 47-3207. Rules.

Sec.

- 47-3213. Analysis of revenue and cost data and recommendations.
- 47-3214. Adoption of tax and rate structures.
- 47-3215. Limit on expenditures for civic center.
- 47-3216. Jobs.

Subchapter III. Effective Dates.

- 47-3221. Effective date of subchapter I.

Subchapter II. Mayor's Reports.

- 47-3211. Required; contents generally.
- 47-3212. Contents of annual revenue data estimates and projections.

Subchapter I. General Provisions.

§ 47-3201. Definitions.

For the purposes of this chapter:

(1) The term "person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals or of the foregoing.

(2) The term "operator" means any person operating a hotel in the District of Columbia, including, but not limited to, an owner or proprietor of such premises, or a lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

(3) The term "occupant" means any person who, for a consideration, uses, possesses, or has the right to use or possess, any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

(4) The term "occupancy" means the use or possession, or the right to the use or possession, by any person of any room or rooms in a hotel.

(5) The term "hotel" means any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to persons other than permanent residents.

(6) The term "room" means any room of any kind, other than a bathroom, lavatory, or kitchen, in any part or portion of a hotel, which use or possession is available for or let out for any purpose other than as a place of assembly.

(7) The term "rent" means the consideration received by an operator for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, property, or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

(8) The term “permanent resident of a hotel” means any occupant of a room or rooms in a hotel for 90 consecutive days or more

(9) The term “place of assembly” means any room rented by the operator or used by the operator exclusively for dining, meetings, dances, entertainment, exhibitions, and the like. This term does not include any room or suites of rooms which are also customarily used or rented for sleeping accommodations.

(10) The term “Mayor” means the Mayor of the District of Columbia as established under § 1-241, or his duly authorized representative.

(11) The term “District” means the District of Columbia.

(12) The term “Washington Convention Center Authority Fund” means the fund established for the Washington Convention Center Authority pursuant to § 9-809 sometimes also referred to in this chapter as the “Civic Center”. (1973 Ed., § 47-3101; Mar. 16, 1978, D.C. Law 2-58, § 101, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 2, 29 DCR 2757; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — Law 2-58, the “Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977,” was introduced in Council and assigned Bill No. 2-169, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 13, 1977 and October 11, 1977, respectively. Signed by the Mayor on December 30, 1977, it was assigned Act No. 2-127 and

transmitted to both Houses of Congress for its review.

Legislative history of Law 4-137. — See note to § 47-3207.

Effective date. — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

§ 47-3202. Imposition and rate of tax.

(a) There is hereby imposed and there shall be paid a tax at the rate of \$1.50 for every occupancy of each room (irrespective of the number of occupants in each room) in a hotel in the District of Columbia. The tax shall apply to each occupancy of a room each time a daily rate or less than a daily rate is charged for such occupancy. If the rate charged for the occupancy is more than for a daily period, the tax shall apply to each room for each day of occupancy during such period.

(b) The tax hereby imposed is in addition to any other taxes imposed on the sale or charges for such rooms or occupancy, and shall be separately stated from all other charges or taxes.

(c) The tax hereby imposed shall be collected from the occupant by the operator and held by the operator in trust for the District of Columbia. The operator shall be liable for payment of the tax to the District of Columbia whether or not he or she has collected such tax from the occupant. The operator, and each and every officer of any corporate operator, shall be personally liable for the tax collected or required to be collected under this subchapter. The operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession,

repossession, and enforcement of any innkeeper's lien that he may have in the event of nonpayment of rent by the occupant.

(d) Where the occupant has failed to pay and the operator has failed to collect the tax imposed by this subchapter, then in addition to all other rights, obligations, and remedies provided in this chapter, such tax shall be payable by the occupant directly to the District, and it shall be the duty of the occupant to file a return thereof with the District and to pay the tax imposed by this subchapter. (1973 Ed., § 47-3102; Mar. 16, 1978, D.C. Law 2-58, § 102, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 3, 29 DCR 2757; July 26, 1989, D.C. Law 8-17, § 10(a), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

Legislative history of Law 4-137. — See note to § 47-3207.

Legislative history of Law 8-17. — Law 8-17, the "Revenue Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989

and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Effective date. — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

§ 47-3203. Exemptions.

The tax imposed by this subchapter shall not apply to occupancy by:

- (1) Permanent residents of a hotel;
- (2) The United States government or any of its instrumentalities when payments for the occupancy are made directly to the operator by the United States government or its instrumentalities;
- (3) The District of Columbia government or any of its instrumentalities when payments for the occupancy are made directly to the operator by the District of Columbia government or its instrumentalities; and
- (4) Members of the foreign diplomatic corps who possess and display to the operator a valid and current exemption card issued to them by the Department of State of the United States. (1973 Ed., § 47-3103; Mar. 16, 1978, D.C. Law 2-58, § 103, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3204. Returns and payment of tax.

(a) Every operator or any other person liable for the tax imposed by this subchapter shall file a return for each calendar month on or before the 20th day of the month immediately succeeding such calendar month or at such other times and for such other periods as the Mayor may prescribe. The return shall be in such form and contain such information as the Mayor may prescribe.

(b) At the time of filing the return as provided by this title, the operator or any other person liable for tax under this subchapter, shall pay to the District

the taxes imposed by this subchapter. The taxes for the period for which a return is required to be filed, by an operator or any other person liable for tax under this subchapter, shall be due from the operator or such other person, and payable to the District on the date prescribed for the filing of the return for such period, without regard to whether a return is filed. (1973 Ed., § 47-3104; Mar. 16, 1978, D.C. Law 2-58, § 104, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3205. Incorporation of certain existing D.C. Code sections.

The provisions of §§ 47-2018, 47-2019, 47-2020, 47-2021, 47-2022, 47-2024, 47-2025, 47-2026, 47-2027, 47-2028, 47-2029, 47-2030, 47-2031, and 47-2032 are hereby incorporated in and made a part of this subchapter. For the purposes of this subchapter, wherever the term “vendors” appears in the aforementioned sections, it shall include operators and any other person liable for tax under this subchapter, and wherever the term “Assessor” appears it shall be deemed to mean the Mayor. (1973 Ed., § 47-3105; Mar. 16, 1978, D.C. Law 2-58, § 105, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3206. Washington Convention Center Authority Fund.

(a) An amount equal to 40% of the amount received from the tax imposed by this subchapter shall be collected by the Mayor on behalf of the Washington Convention Center Authority and set aside and transferred on a monthly basis to the Washington Convention Center Authority Fund, established pursuant to § 9-809.

(b)(1) An amount equal to 60% of the amount received from the tax imposed by this subchapter shall be set aside and disbursed from the General Fund of the District for the purpose of promoting Washington Convention Center Authority activities and promoting conventions and tourism in the District of Columbia. The amount set aside and disbursed shall be further allocated and distributed as follows:

(A) 50% to the Washington Convention and Visitors Association, provided that the Washington Convention and Visitors Association does not refer any business to any hotel outside the District until such time as all hotel rooms in the District are occupied;

(B) 37.5% to the Mayor’s Committee to Promote Washington; and

(C) 12.5%, and any additional remaining percentage share, if any, to the Washington Convention Center Authority for advertising and promotion.

(2)(A) The amount disbursed pursuant to paragraph (1) of this subsection shall be distributed quarterly, provided that the Washington Convention and Visitors Association and the Mayor's Committee to Promote Washington shall execute and comply with marketing, promotional, and sales contracts with the Authority and with the advice of the Office of Tourism and Promotions, established pursuant to Reorganization Plan No. 2 of 1992 Approval Resolution of 1992, effective October 1, 1992.

(B) Where applicable, all contracts shall include information on general and specific responsibilities, pricing, financial reports and data, associated services, cooperative efforts with the Authority and the District, duration and termination of agreements, proprietary work product, notices and remedies.

(c) Notwithstanding subsection (b) of this section, no more than 52.59% of the hotel occupancy tax revenues shall be dedicated to the Washington Convention Center Authority Fund for promotions of conventions and tourism in Fiscal Year 1995, with the balance of the previously dedicated amount for promotions (7.41% of the hotel occupancy tax revenues) to be deposited in the general operating fund of the District government in Fiscal Year 1995. (1973 Ed., § 47-3106; Mar. 16, 1978, D.C. Law 2-58, § 106, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 4, 29 DCR 2757; July 26, 1989, D.C. Law 8-17, § 10(b), 36 DCR 4160; Feb. 5, 1994, D.C. Law 10-68, § 49, 40 DCR 6311; Sept. 28, 1994, D.C. Law 10-188, § 304, 41 DCR 5333; Mar. 23, 1995, D.C. Law 10-253, § 109, 42 DCR 721; Sept. 26, 1995, D.C. Law 11-52, § 115, 42 DCR 3684; Apr. 18, 1996, D.C. Law 11-110, § 58, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 9-802.

Effect of amendments. — D.C. Law 11-52 added (c).

D.C. Law 11-110 substituted "disbursed" for "dispersed" in the second sentence of the introductory paragraph in (b)(1), and in (b)(2)(A).

Legislative history of Law 2-58. — See note to § 47-3201.

Legislative history of Law 4-137. — See note to § 47-3207.

Legislative history of Law 8-17. — See note to § 47-3202.

Legislative history of Law 10-68. — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 10-188. — Law 10-188, the "Washington Convention Center Authority Act of 1994," was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and Sequential to the Committee of the

Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

Legislative history of Law 10-253. — Law 10-253, the "Multiyear Budget Spending Reduction and Support Temporary Act of 1994," was introduced in Council and assigned Bill No. 10-857. The Bill was adopted on first and second readings on December 21, 1994, and January 3, 1995, respectively. Deemed approved without the signature of the Mayor on January 27, 1995, it was assigned Act No. 10-401 and transmitted to both Houses of Congress for its review. D.C. Law 10-253 became effective on March 23, 1995.

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

References in text. — The Reorganization Plan No. 2 of 1992 Approval Resolution of 1992, referred to in (b)(2)(A), appears in full in the cumulative supplement to Volume 1.

Effective date. — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

Audit of accounts and operation of Authority. — Section 305(a) of D.C. Law 10-188 provided that “on or before July 1 of each year, the District of Columbia Auditor, pursuant to the Auditor’s duties under § 47-117(b), shall audit the accounts and operation of the Author-

ity and made a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year.”

Section 305(b) of D.C. Law 10-188 provided that “If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-707(g).”

§ 47-3207. Rules.

The Mayor shall issue rules necessary to carry out the provisions of this chapter. (Mar. 16, 1978, D.C. Law 2-58, § 107, as added Aug. 14, 1982, D.C. Law 4-137, § 5, 29 DCR 2757; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

Legislative history of Law 4-137. — Law 4-137, the “Hotel Occupancy Tax Increase Act of 1982,” was introduced in Council and assigned Bill No. 4-394, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 25, 1982 and June 8, 1982, respectively. Signed

by the Mayor on June 21, 1982, it was assigned Act No. 4-203 and transmitted to both Houses of Congress for its review.

Effective date. — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

Subchapter II. Mayor’s Reports.

§ 47-3211. Required; contents generally.

The Mayor shall report to the Council each year, on or before the date he or she submits to the Council a budget as required under § 47-301, on the detailed and total annual costs and revenues associated with the Civic Center. Such report shall include cost and revenue data beginning with the first year the costs were incurred in planning, constructing, or operating a civic center and ending with cost and revenue data in the most recent time period for which data are available. Each report shall also include cost and revenue projections for 5 years in the future from the date each report is submitted. (1973 Ed.,

§ 47-3107; Mar. 16, 1978, D.C. Law 2-58, § 301, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-3212, 47-3213 and 47-3216.

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3212. Contents of annual revenue data estimates and projections.

Annual revenue data estimates and projections, as required under § 47-3211, shall include, but not be limited to:

(1) Direct, indirect, and induced revenues resulting from construction and operation of the Civic Center, including, but not limited to, revenues from the operation of the Civic Center, real property tax revenue increases, hotel occupancy tax revenues, retail sales tax revenue increases, income tax revenue increases, plus other revenues generated by the Civic Center, less taxes and other revenues generated by land, buildings, jobs, and other sources from land uses which were replaced or displaced by the Civic Center and replaced or displaced by the indirect effects of the Civic Center (these revenues shall be listed in detail and all assumptions used in developing estimates and projections shall be clearly stated); and

(2) Direct and indirect costs resulting from construction and operation of the Civic Center, including, but not limited to, start-up administrative costs, capital construction costs, capital improvements, direct and indirect operating costs, financing of capital costs, costs of additional city services required by the Civic Center, and other administrative and other costs. (1973 Ed., § 47-3108; Mar. 16, 1978, D.C. Law 2-58, § 302, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3213. Analysis of revenue and cost data and recommendations.

As part of the report required by § 47-3211, the Mayor shall analyze the revenue and cost data required by § 47-3211. When necessary, the Mayor shall recommend to the Council tax and rate structure changes which would:

(1) Terminate or reduce the hotel occupancy tax imposed by subchapter I of this chapter and/or terminate or reduce the corporate and unincorporated business surtax extended by §§ 47-1807.2 and 47-1808.3 in the event that direct and indirect revenues exceed direct and indirect costs associated with construction and operation of the Civic Center; or

(2) Increase the hotel occupancy tax imposed by subchapter I of this chapter and/or increase the corporate and unincorporated business surtax extended by §§ 47-1807.2 and 47-1808.3 in the event that direct and indirect revenues do not exceed the direct and indirect costs associated with the operation and construction of the Civic Center without such further tax rate

increases. (1973 Ed., § 47-3109; Mar. 16, 1978, D.C. Law 2-58, § 303, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3214.

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3214. Adoption of tax and rate structures.

The Council of the District of Columbia shall evaluate annually the recommendations proposed by the Mayor under § 47-3213, and adopt tax and rate structure changes which would terminate or reduce the hotel occupancy tax imposed by subchapter I of this chapter and/or (a) terminate or reduce the corporate and unincorporated business surtax extended by §§ 47-1807.2 and 47-1808.3 in the event that direct and indirect revenues exceed direct and indirect costs associated with construction and operation of the Civic Center, or (b) increase the hotel occupancy tax imposed by subchapter I of this chapter and/or increase the corporate and unincorporated business surtax extended by §§ 47-1807.2 and 47-1808.3 in the event that direct and indirect revenues do not exceed direct and indirect costs associated with operation and construction of the Civic Center without such further tax rate increases. (1973 Ed., § 47-3110; Mar. 16, 1978, D.C. Law 2-58, § 304, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

§ 47-3215. Limit on expenditures for civic center.

The District government may expend on civic center construction and operation up to 100% of the revenues received from the corporate and unincorporated business surtax enacted and extended under §§ 47-1807.2 and 47-1808.3. (1973 Ed., § 47-3111; Mar. 16, 1978, D.C. Law 2-58, § 305, 24 DCR 5765; Sept. 26, 1984, D.C. Law 5-113, § 301, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed

by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 901 of D.C. Law 5-113 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.

§ 47-3216. Jobs.

At the same time the Mayor submits cost and revenue data as required by § 47-3211, the Mayor shall report to the Council of the District of Columbia on the total number of jobs, in person-years and in payroll dollars, created by the construction and operation of the Civic Center, and the portion of those jobs which are held by minorities, women, and District of Columbia residents.

(1973 Ed., § 47-3112; Mar. 16, 1978, D.C. Law 2-58, § 306, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

Subchapter III. Effective Dates.

§ 47-3221. Effective date of subchapter I.

Subchapter I of this chapter shall become effective on May 1, 1978. (1973 Ed., § 47-3113; Mar. 16, 1978, D.C. Law 2-58, § 401, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 2-58. — See note to § 47-3201.

CHAPTER 33. SUPERIOR COURT, TAX DIVISION.

Sec.

- 47-3301. Tax appeals, definitions.
 47-3302. Retirement of Judge of District of Columbia Tax Court.
 47-3303. Appeal from assessment; hearing and decision.
 47-3304. Review by Court; finality of decision; modification or reversal.

Sec.

- 47-3305. Appeals of real estate assessments.
 47-3306. Refund of erroneous collections.
 47-3307. Certain suits forbidden.
 47-3308. Manner of serving notices.
 47-3309. Reference by Mayor to the Superior Court.
 47-3310. Overpayments; refund; appeal.

§ 47-3301. Tax appeals, definitions.

In the interpretation of this chapter, unless the context indicates a different meaning:

- (1) The term "tax" means the tax or taxes mentioned in this chapter.
- (2) The term "appeal" means the appeal provided in this chapter.
- (3) The term "Mayor" means the Mayor of the District of Columbia or his duly authorized representative or representatives.
- (4) The term "District" means the District of Columbia.
- (5) The term "person" includes any individual, firm, copartnership, joint venture, association, corporation (domestic or foreign), trust, estate, or receiver.
- (6) The term "Court" means the Superior Court of the District of Columbia, unless the context indicates otherwise.
- (7) The term "Assessor" means the Assessor of the District of Columbia.
- (8) The term "Board of Real Property Assessments and Appeals" means the Board of Real Property Assessments and Appeals of the District of Columbia. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 1; May 16, 1938, 52 Stat. 370, ch. 223, § 8; July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(1); 1973 Ed., § 47-2401; Apr. 30, 1988, D.C. Law 7-104, § 41(b), 35 DCR 147; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-104. — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-241. — Law 9-241, the "Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992,"

was introduced in Council and assigned Bill No. 9-199, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 5, 1993, it was assigned Act No. 9-375 and transmitted to both Houses of Congress for its review. D.C. Law 9-241 became effective on March 17, 1993.

Office of Assessor abolished. — See note to § 47-413.

Cited in *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990).

§ 47-3302. Retirement of Judge of District of Columbia Tax Court.

- (a) The judge of the District of Columbia Tax Court may hereafter retire (1) after having served as a judge of such Court for a period or periods aggregating

20 years or more, whether continuously or not, (2) after having served as a judge of such Court for a period or periods aggregating 10 years or more, whether continuously or not, and having attained the age of 70 years, or (3) after having become permanently disabled from performing his duties, regardless of age or length of service. Such judge may retire for disability by furnishing to the Commissioner of the District of Columbia a certificate of disability signed by the Chief Judge of the United States District Court for the District of Columbia. The judge who retires under this section shall receive annually in monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such judge at the time of such retirement as a total of his aggregate years of service bears to the period of 30 years, the same to be paid in the same manner as the salary of such judge. In no event shall the sum received by such judge hereunder be in excess of the salary of such judge at the time of such retirement. In computing the years of service under this section, service in the Board of Tax Appeals for the District of Columbia shall be included whether or not such service be continuous.

(b) The term "retire" as used in this section means and includes retirement, resignation, or failure of reappointment upon the expiration of the term of office of incumbent. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 2; May 16, 1938, 52 Stat. 370, ch. 223, § 8; July 26, 1939, 53 Stat. 1108, ch. 367, title IV, § 5(a); Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); July 10, 1952, 66 Stat. 547, ch. 649, § 5; July 11, 1955, 69 Stat. 290, ch. 302, § 3; July 2, 1956, 70 Stat. 485, ch. 494, § 1; Aug. 14, 1964, 78 Stat. 431, Pub. L. 88-426, § 306(i)(4); Oct. 17, 1968, 82 Stat. 1119, Pub. L. 90-579, § 3; Apr. 15, 1970, 84 Stat. 198, Pub. L. 91-231, § 6(c); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(2); 1973 Ed., § 47-2402; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Board of Tax Appeals for the District of Columbia was an "administrative agency" established to furnish more efficient, speedy, and less expensive method of determining validity of assessments, and was "quasi judicial" in nature, but was not a "court." *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

The Board of Tax Appeals for the District of Columbia was not a "court"; rather, it was an "administrative agency" to which a taxpayer seeking relief could appeal an alleged excessive assessment of the Board of Equalization and Review. *Watrous v. District of Columbia*, 135 F.2d 654 (D.C. Cir. 1943).

§ 47-3303. Appeal from assessment; hearing and decision.

Any person aggrieved by any assessment by the District of any personal property, inheritance, estate, business privilege, income and franchise, sales, alcoholic beverage, gross receipts, gross earnings, insurance premiums, or motor-vehicle fuel tax or taxes, or penalties thereon, may within 6 months after the date of such assessment appeal from the assessment to the Superior Court of the District of Columbia; provided, that such person shall first pay such tax together with penalties and interest due thereon to the D.C. Treasurer. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The Court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing.

The Court may affirm, cancel, reduce, or increase the assessment. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 3; May 16, 1938, 52 Stat. 371, ch. 223, § 8; July 26, 1939, 53 Stat. 1108, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 543, ch. 649, § 3(a); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(3); 1973 Ed., § 47-2403; July 24, 1982, D.C. Law 4-131, § 401, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

- I. General Consideration.
- II. Jurisdiction of Court.
- III. Parties.
- IV. Time for Appeal.
- V. Determination.

I. GENERAL CONSIDERATION.

Cross references. — As to complaints to Board of Real Property Assessments and Appeals, see § 47-830.

As to appeals from real property assessments, see § 47-1009.

Section references. — This section is referred to in §§ 25-143, 40-705, 45-934, 47-169, 47-175, 47-825.1, 47-830, 47-831, 47-834, 47-845.1, 47-914, 47-1009, 47-1512, 47-1533, 47-1812.11, 47-1815.1, 47-2021, 47-2319, 47-2413, 47-3305, 47-3310, 47-3717, and 47-3908.

Legislative history of Law 4-131. — Law 4-131, the "District of Columbia Tax Enforcement Act of 1982," was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

New implementing regulations. — The "District of Columbia Boat Titling Act of 1983" (D.C. Law 5-58, Mar. 14, 1984, 30 DCR 6293) provides that persons aggrieved by an assessment under § 4-b of Article 29 of the Police Regulations of the District of Columbia may appeal the assessment in the same manner as set forth in § 47-3303.

Necessity of statute. — Taxes which are illegally or erroneously assessed and voluntarily paid cannot be refunded absent an authorizing statute. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Applicability of provisions. — This section is a general section applicable to all taxes referred to therein and to all time situations which might arise, and reference to interest and penalties is used in respect of taxes whose due dates might antedate expiration of the statutory period within which appeal is to be taken. *Rynex v. District of Columbia*, 114 F.2d 842 (D.C. Cir. 1940).

Nature of remedy. — Prior to creation of the Superior Court of the District of Columbia,

taxpayer was subject to common-law rule prohibiting challenge of tax unless involuntarily paid, and a mere statement tax was being paid under protest did not make it an "involuntary payment." *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

The remedy before the Superior Court of the District of Columbia afforded an aggrieved taxpayer is not exclusive of common-law remedy. *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

Congress may provide an exclusive administrative remedy for recovery of illegally collected taxes, or abolish common-law right of action and substitute new statutory right, but, unless so declared expressly or impliedly, statutory remedy is "cumulative" of common-law remedy. *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

As to taxpayer paying voluntarily, this chapter creating the Superior Court of the District of Columbia created new right, and the remedy provided by it is exclusive; but, as to taxpayer paying involuntarily within common-law meaning, remedy before the board (now court) is cumulative, and such taxpayer may elect between statutory remedy and common-law remedy. *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

A taxpayer may contest validity of tax voluntarily paid, which is a new right created by this chapter establishing the Superior Court of the District of Columbia, and remedy provided by this chapter is the only remedy for such right. *Lindner v. District of Columbia*, App. D.C., 32 A.2d 540 (1943).

Section does not apply to appeals from corporate tax deficiency assessments; § 47-1815.1 applies to the filing of appeals from such assessments. *Floyd E. Davis Mtg. Corp. v. District of Columbia*, App. D.C., 455 A.2d 910 (1983).

The proper standard for determining whether equitable relief may be obtained against the collection of any tax requires: 1) A finding that under no circumstances could the government ultimately prevail, and 2) that

equity jurisdiction otherwise exists, that is, proof of irreparable injury and inadequacy of the legal remedy. *Barry v. AT & T Co.*, App. D.C., 563 A.2d 1069 (1989), rev'd sub nom. on other grounds, *Sprint Communications Co. v. Kelly*, App. D.C., 642 A.2d 106, cert. denied, — U.S. —, 115 S. Ct. 294, 130 L. Ed. 2d 208 (1994).

Authority of court generally. — Under this section and § 47-3307, a suit seeking the avoidance or adjustment of taxes paid to the District will lie only after certain paths are taken (i.e., the taxes are paid and then challenged), and where the statutory prerequisites are not met, the trial court is without jurisdiction to enjoin the taxes. The word "tax" is not a talisman that deprives the trial court of jurisdiction to remedy wrongs with which tax questions are intertwined. While a trial court did not have power to order a blanket cancellation of taxes, it retained broad discretion to fashion an appropriate discovery remedy short of "cancellation" of the taxes. *District of Columbia v. United Jewish Appeal Fed'n of Greater Wash., Inc.*, App. D.C., 672 A.2d 1075 (1996).

Cited in Trustees of Nineteenth St. Baptist Church v. District of Columbia, App. D.C., 385 A.2d 8 (1978); *1776 K St. Assocs. v. District of Columbia*, App. D.C., 446 A.2d 1114 (1982); *Peoples Drug Stores, Inc. v. District of Columbia*, App. D.C., 470 A.2d 751 (1983); *Ward v. District of Columbia*, 111 WLR 373 (Super. Ct. 1983); *McLean Gardens Corp. v. District of Columbia*, 111 WLR 785 (Super. Ct. 1983); *Washington Sheraton v. District of Columbia*, 111 WLR 1053 (Super. Ct. 1983); *National Trust for Historic Preservation in United States v. District of Columbia*, App. D.C., 498 A.2d 574 (1985); *District of Columbia v. Washington Sheraton Corp.*, App. D.C., 499 A.2d 109 (1985); *Hutchison Bros. Excavating Co. v. District of Columbia*, App. D.C., 511 A.2d 3 (1986); *District of Columbia v. Square 254 Ltd. Partnership*, App. D.C., 516 A.2d 907 (1986); *Richardson v. District of Columbia*, App. D.C., 522 A.2d 1295 (1987); *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987); *George Wash. Univ. v. District of Columbia*, App. D.C., 563 A.2d 759 (1989); *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990); *Wolf v. District of Columbia*, App. D.C., 611 A.2d 44 (1992); *Hessey v. Burden*, App. D.C., 615 A.2d 562 (1992); *National Press Bldg. Corp. v. District of Columbia*, 123 WLR 2089 (Super. Ct. 1995).

II. JURISDICTION OF COURT.

Letter deemed sufficient as informal petition to court. — A letter which was signed by officer of executor of decedent's estate and which specifically stated that it was sent as agent for residuary legatee and that the legatee wished to appeal inheritance tax assessment

substantially complied with tax court rule (i.e., District of Columbia Tax Court rule) providing for informal petition consisting of letter addressed to court and actually signed by taxpayer if it contains statements sufficient to indicate that court has jurisdiction of subject. *District of Columbia v. Payne*, 374 F.2d 261 (D.C. Cir. 1966).

Payment of interest accrued a prerequisite to appeal. — The payment by a taxpayer of the total amount of deficiency shown on the notice of assessment, which does not include the interest which accrued through the date of payment, is not enough to satisfy the jurisdictional requirement of this section. *First Interstate Credit Alliance, Inc. v. District of Columbia*, App. D.C., 604 A.2d 10 (1992).

Subject matter jurisdiction of Superior Court to grant refund for taxes illegally or erroneously assessed and voluntarily paid does not attach unless taxpayer has made a complaint to Board of Equalization and Review. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Once time for administrative disposition finished. — The Council of District of Columbia had no power to exempt real estate of institutional owner where application for exemption came after property had been assessed for year, and an appeal within the statutory period was its only remedy. *Congregational Home v. District of Columbia*, 202 F.2d 808 (D.C. Cir. 1953).

Equitable intervention held not justified. — In case where taxpayers, who did not appeal within permitted time to Board of Equalization and Review, sought refund of portion of taxes paid due to change in level of assessment from 55 percent to 60 percent of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention was held not justified on theory that District officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies, in light of fact that other taxpayers were able to discover "stairstep" plan while pursuing administrative remedies. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Even if it were appropriate to apply principles of equity in uncertified class action, in which taxpayers seek refund of taxes paid due to certain change in level of assessment and in which taxpayers allege that District's treatment of the tax matter in question is not characterized by candor or adherence to principles of good fiscal management, award of such refunds on equitable principles is not justified in that adverse impact of refunds on citizenry outweighs economic interest of plaintiff taxpayer.

ers. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Injunctive relief permitted. — Where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative remedies. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), aff'd, App. D.C., 348 A.2d 305 (1975).

Where real property owners who had not sought administrative review of District of Columbia tax assessment were excused from so doing because of lack of knowledge that debase-ment factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), aff'd, App. D.C., 348 A.2d 305 (1975).

Failure to file within the 6-month period of this section deprives the Superior Court of jurisdiction to consider the taxpayer's appeal of the assessment. *First Interstate Credit Alliance, Inc. v. District of Columbia*, App. D.C., 604 A.2d 10 (1992).

Jurisdiction not conferred by stipulation of parties. — Where the Superior Court of the District of Columbia was without jurisdiction of a claim for refund of part of business privilege tax because there had been no overpayment when claim was made, the stipulation of the parties could not confer jurisdiction. *J.E. Dyer & Co. v. District of Columbia*, 115 F.2d 945 (D.C. Cir. 1940).

Jurisdiction over concession of error. — Where taxpayer filed a timely motion for reconsideration with the Board of Equalization and Review, then the District filed its opposition and asserted—erroneously—that the Board could not entertain his motion because the tax roll had already been certified, and the Board conceded in a letter that its earlier decision had involved plain error, court had jurisdiction to decide whether to give effect to the Board's letter. *District of Columbia v. W.T. Galliher & Bro.*, App. D.C., 656 A.2d 296 (1995).

III. PARTIES.

Determinations of "person aggrieved." — Generally an executor is not "person aggrieved" for purposes of an appeal to the Superior Court unless either estate as whole is directly affected by decision appealed from, or unless his individual interests are directly and personally affected thereby. *District of Columbia v. Fadeley*, 233 F.2d 667 (D.C. Cir.), cert.

denied, 352 U.S. 847, 77 S. Ct. 64, 1 L. Ed. 2d 57 (1956).

Though inheritance tax of District of Columbia on certain dispositions of property was technically not assessed against legatee, assessment was "against him" for all practical purposes where he was required under terms of will to pay same, and he could appeal under this section as a "person aggrieved" by any assessment "against him." *District of Columbia v. Fadeley*, 233 F.2d 667 (D.C. Cir.), cert. denied, 352 U.S. 847, 77 S. Ct. 64, 1 L. Ed. 2d 57 (1956).

National bank entitled to maintain proceeding. — A national bank claiming that it was discriminated against by administrative application of § 47-2501, imposing tax on gross earnings of banks, was entitled to maintain proceeding before the Superior Court notwithstanding absence of bank favored by the administrative practice. *Hamilton Nat'l Bank v. District of Columbia*, 156 F.2d 843 (D.C. Cir. 1946).

IV. TIME FOR APPEAL.

Prepayment requirement no violation of due process. — Where before taxpayers elected to invoke the appeal procedure for review of underlying assessment of real estate taxes, they could have chosen to utilize common-law remedies expressly available under § 47-3310, but once they elected to file an appeal they apparently lost that right, though taxpayers might be without a remedy, it was due to their own failure to comply with jurisdictional requirements of procedure they elected to invoke and not due to any deprivation occasioned by the statutory scheme itself, and prepayment requirement that taxpayer first pay the tax before appeal may be taken did not visit any undue hardship upon taxpayers and did not violate due process clause. *District of Columbia v. Berenter*, 466 F.2d 367 (D.C. Cir. 1972).

Requirement of time and payment jurisdictional. — The requirement of this section that one who appeals to the Superior Court of the District of Columbia shall first pay such tax is jurisdictional. *Industrial Bank v. District of Columbia*, 188 F.2d 46 (D.C. Cir. 1951).

Requirement that appeal be taken within the period provided for in this section is jurisdictional to the appeal. *Jewish War Veterans v. District of Columbia*, 243 F.2d 646 (D.C. Cir. 1957).

The requirement that one who petitions for review must first pay all his taxes before filing the petition is jurisdictional and dismissal for failure to pay before filing is proper. *Wagshal v. District of Columbia*, App. D.C., 430 A.2d 524 (1981).

And cannot be waived. — Requirement of timely filing of petition contesting assessment of real property taxes is jurisdictional require-

ment which cannot be waived by failure to assert 6-month limitation period as affirmative defense in answer to petition. *National Graduate Univ. v. District of Columbia*, App. D.C., 346 A.2d 740 (1975).

All installments need to be paid at time of appeal. — Superior Court of the District of Columbia did not have jurisdiction to hear appeal from tax assessment where taxpayer had paid only the 1st installment on its taxes at the time it filed appeal, even though taxpayer paid the second installment before Superior Court dismissed the appeal and before the time had expired for the filing of the petition. *George Hyman Constr. Co. v. District of Columbia*, App. D.C., 315 A.2d 175 (1974).

Where taxpayer pursued statutory remedy provided for appeals of tax assessments, taxpayer was required to comply with the statutory requirements, including requirement that tax be paid prior to initiation of the appeal, even though taxpayer was arguing that the assessment was void and not merely excessive. *George Hyman Constr. Co. v. District of Columbia*, App. D.C., 315 A.2d 175 (1974).

Since taxpayer's allegation that taxes imposed on building which was completed in 2nd half of the year should have been imposed only for the 2nd half and should not have been imposed under statute providing for annual assessment was an attack on the propriety of the annual assessment, taxpayer's attack was on entire assessment, even though taxpayer recognized validity of assessment for the 2nd half, and Superior Court was without jurisdiction to hear the appeal where taxpayer had paid only the 1st installment of the tax. *George Hyman Constr. Co. v. District of Columbia*, App. D.C., 315 A.2d 175 (1974).

Where taxpayers paid 1st half of real estate taxes levied for 1969 fiscal year before petitioning the Court on December 30, 1968, for review of underlying assessment but did not pay 2nd half of challenged taxes until March 26, 1969, failure of taxpayers to pay all of challenged taxes levied for the entire fiscal year in question prior to time their appeal was filed deprived the Court of jurisdiction over any and all of the taxes in issue. *District of Columbia v. Berenter*, 466 F.2d 367 (D.C. Cir. 1972).

Together with interest and penalties. — Judicial review of income tax assessment did not lie in District of Columbia until disputed tax, together with interest and penalties, had been paid. *Perry v. District of Columbia*, App. D.C., 314 A.2d 766, cert. denied, 419 U.S. 836, 95 S. Ct. 63, 42 L. Ed. 2d 62 (1974).

Postmark controls contested time of payment. — Where payment of taxes is made by mail and the time of payment is contested, the postmark affixed by the United States Postal Service shall be controlling over any

private meter cancellation. *Wagshal v. District of Columbia*, App. D.C., 430 A.2d 524 (1981).

A taxpayer who is dissatisfied with an informal resolution of the Board of Equalization and Review is entitled, as a matter of right, to a new valuation, which is to be made through a formal, adversarial, and judicial process before the Superior Court. *District of Columbia v. New York Life Ins. Co.*, App. D.C., 650 A.2d 671 (1994).

Sufficient payment of tax. — Where corporation delivered to examiner in the Office of the Assessor of Taxes checks in respect to business privilege tax assessed against the corporation, as well as a letter protesting the tax, and the Assessor's Office handed on the checks to the Office of Collector, there was sufficient payment of the tax to the Collector to permit an appeal by the corporation to the Court. *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953).

Payment of inheritance tax prerequisite to appeal. — Where donee's grandsons did not pay District of Columbia inheritance tax which was required by will to be paid by residuary legatee, they were not entitled to appeal from the assessment. *District of Columbia v. Fadeley*, 233 F.2d 667 (D.C. Cir.), cert. denied, 352 U.S. 847, 77 S. Ct. 64, 1 L. Ed. 2d 57 (1956).

There is no conflict between this section and § 47-1904. *Rynex v. District of Columbia*, 114 F.2d 842 (D.C. Cir. 1940).

Requirement applicable to tax exempt property. — Requirement that petition contesting assessment of real property be filed within 6 months "after payment of the tax" applies to tax-exempt property, and such 6-month period runs from date of assessment. *National Graduate Univ. v. District of Columbia*, App. D.C., 346 A.2d 740 (1975).

Complaint of church trustees who disputed liability for assessed real estate taxes against previously exempt property was barred by limitations where petition protesting assessment was filed more than 6 months after mailing of assessment. *Trustees of the Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 378 A.2d 661 (1977), rehearing denied, 385 A.2d 8 (1978).

Abatement claim not timely filed. — Where taxpayer overpaid its business privilege tax only because, on its own responsibility, it made incorrect returns and underpaid its personal property taxes, claim that business privileges taxes should be abated to extent of additional payment of tangible personal property taxes was barred in view of fact that appeal to the Court was made after the expiration of the period provided for in this section. *Hecht Co. v. District of Columbia*, 129 F.2d 353 (D.C. Cir. 1942).

Mere return of assessment notice not toll of appeal period. — Taxpayer could not

toll running of the period within which to appeal real estate tax assessment by merely returning to Assessor the notice of assessment which taxpayer received and which determined beginning of the period. *Jewish War Veterans v. District of Columbia*, 243 F.2d 646 (D.C. Cir. 1957).

But limitations period tolled for administrative consideration. — Specifically exempt educational institutions are excused from making written application for tax-exempt status; any real estate acquired by such institutions is considered to be exempt ab initio so long as it is used for educational purposes and that presumption justifies allowing institutions to administratively appeal disputed assessments before litigating them in court; and usual 6-month limitations period to petition the court is tolled for duration of administrative consideration. *Trustees of the Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 378 A.2d 661 (1977).

Time limitation of section not imposed on refund claimants. — The reference in § 47-3310(a) to this section and § 47-3304 was meant to set forth the nature of the judicial remedy available to the taxpayer claiming a refund in the event that he was unsuccessful in obtaining such refund; it was not meant to impose on refund claimants the time limitation contained in this section. *Carter-Lanhardt, Inc. v. District of Columbia*, App. D.C., 413 A.2d 916 (1980).

V. DETERMINATION.

Role of court. — The role of the Superior Court is to afford the petitioner a trial de novo. Thus, the Court must scrutinize the entire process by which the petitioner's expert, the District's assessors, and the District's expert witness arrived at their conclusions. *Square 345 Assoc. Partnership v. District of Columbia*, 123 WLR 1697 (Super. Ct. 1995).

Proceeding brought under section is trial de novo necessitating competent evidence to prove the matters in issue. *Wyner v. District of Columbia*, App. D.C., 411 A.2d 59 (1980).

When a taxpayer appeals to the Superior Court, the case is subject to de novo evaluation. *Rock Creek Plaza-Woodner Ltd. Partnership v. District of Columbia*, App. D.C., 466 A.2d 857 (1983).

Tax Division proceedings are entirely de novo; the court's task is not to conduct a review of agency action, but to make an independent valuation of the property on the basis of the evidence presented at trial. *District of Columbia v. New York Life Ins. Co.*, App. D.C., 650 A.2d 671 (1994).

Burden of proof is on the petitioner in a proceeding brought under this section. *Wyner v.*

District of Columbia, App. D.C., 411 A.2d 59 (1980).

Taxpayer asserting invalidity of personal property assessment has the burden of proof. *District of Columbia v. Morris*, 159 F.2d 13 (D.C. Cir. 1946).

Sales used by property owner to support its estimated valuation are competent evidence in proceeding challenging property tax assessment so long as they do not result from foreclosure or other legal compulsion; motivation and circumstances of the sales go to the weight of the evidence, and not to its admissibility. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Issue in personal property assessment. — When personal property assessment is challenged and is brought before the Court, the issue is the correct fair cash value, not merely the basis upon which the Assessor proposed his assessment. *District of Columbia v. Morris*, 159 F.2d 13 (D.C. Cir. 1946).

Determination of income for franchise tax purposes. — The Court was not precluded, by lack of regulatory formula, from determining income fairly attributable to District of Columbia for franchise tax purposes but could determine such amount by applying applicable tax regulations and using formula the Court deemed best suited to determine such income. *District of Columbia v. Gallant, Inc.*, 290 F.2d 745 (D.C. Cir. 1961).

Taxpayer held not estopped to deny figures used. — Taxpayer held not estopped from denying, for personal property tax purposes, the figures set up by her in her income tax returns for depreciation purposes. *District of Columbia v. Morris*, 159 F.2d 13 (D.C. Cir. 1946).

No error in rejecting method of computation. — Where previous judgment of trial court required real property tax assessment of all single-family property at 55 percent, trial court did not err in rejecting District of Columbia's method of computation which was designed to comply with such judgment and which resulted in average level of assessment of 55.00772 percent, in ordering that District recompute assessed value, correct tax roll and reissue supplementary tax bills or refunds within 90 days using method suggested by trial court which was designed to reach greater mathematical exactitude in computation of real property taxes, and in declining to view as de minimis differences in amounts of real property taxes between methods of computation. *District of Columbia v. Green*, App. D.C., 348 A.2d 305 (1975).

Evidentiary error deemed harmless. — Refusal to exclude evidence of asking prices for hotel property in year prior to tax year at issue was error in proceeding on petition challenging real property tax assessment; however, such

evidentiary error was harmless in view of other testimony and District had presented other credible evidence on which trial court could have based finding that value of the property exceeded the owner's asking price, had it been so persuaded. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Court's cancellation of District's assessment and rejection of taxpayer's proposed assessment held not abuse of discretion. — See *Brisker v. District of Columbia*, App. D.C., 510 A.2d 1037 (1986).

Court not limited to granting relief formally requested. — Fact that property owner, which specifically challenged 1973 real property tax assessment, did not amend the petition specifically to include the 1974 assessment, which was received prior to hearing on the 1973 assessment and which was a mere duplicate of the challenged assessment, did not deprive trial court of power to grant relief as to the 1974 assessment since the trial court is not limited in granting relief to that which a party formally has requested; in any event, taxpayer contested the entire valuation process and not merely a single tax payment. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Findings of fact not needed. — Because there were no issues of material fact, there was no need for an evidentiary hearing. There were thus no findings of fact to be made, and the language from this section did not apply. *District of Columbia v. W.T. Galliher & Bro.*, App. D.C., 656 A.2d 296 (1995).

Final judgment of Superior Court on lawful assessment of a particular property

must be treated in the same manner as an equalized assessment from the Board of Equalization and Review, that is, it becomes the basis for taxation until a subsequent reassessment has been made according to law; once the Superior Court has jurisdiction over valuation, such jurisdiction is coextensive with the existence of the valuation itself. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Finality of refund order. — Trial court erred in directing District to refund property tax overpayment within 10 days of its order; the requisite finality is defined by §§ 47-1317, 47-3304, and 47-3306 and is not satisfied by mere lapse of 10 days after entry of trial court's order. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Recovery of attorney fees. — The fact that successful taxpayer-litigants against District of Columbia prevented the collection of illegally imposed taxes, rather than required their refund after collection, could not, in principle, defeat their recovery of attorney fees as successful litigants; thus, the common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant could be applied on basis of tax savings realized by affected taxpayers and trial court could exercise jurisdiction over District of Columbia to require collection of appropriate fees from the benefited taxpayers, unless such course of action is otherwise prohibited or unwarranted. *District of Columbia v. Green*, App. D.C., 381 A.2d 578 (1977).

§ 47-3304. Review by Court; finality of decision; modification or reversal.

(a) Decisions of the Superior Court in civil tax cases are reviewable in the same manner as other decisions of the court in civil cases tried without a jury. The District of Columbia Court of Appeals has the power to affirm, modify, or reverse the decision of the Superior Court with or without remanding the case for hearing.

(b) The decision of the Superior Court shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review, if no petition is filed within that time;

(2) Upon the expiration of time allowed for filing a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, the appeal has been dismissed, or no petition for certiorari has been filed;

(3) Upon denial of a petition for certiorari if the decision of the Superior Court has been affirmed on appeal or the appeal has been dismissed; or

(4) Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court has affirmed the decision of the Superior Court or dismissed the petition for review.

(c) If the Supreme Court directs that the decision of the Superior Court be modified or reversed, the decision rendered in accordance with the Supreme Court's mandate shall become final upon the expiration of 30 days from the time it was rendered unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected to accord with the mandate, in which event the decision of the Superior Court shall become final when so corrected.

(d) If the decision of the Superior Court is modified or reversed by the District of Columbia Court of Appeals and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the District of Columbia Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered in accordance with the mandate of the District of Columbia Court of Appeals shall become final upon the expiration of 30 days from the time the decision of the Superior Court was rendered, unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected so that it will accord with the mandate, in which event the decision of the Superior Court shall become final when corrected.

(e) If the Supreme Court orders a rehearing, or if the case is remanded by the District of Columbia Court of Appeals for rehearing and if (1) the time allowed for filing of a petition for certiorari has expired and no petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the District of Columbia Court of Appeals has been affirmed by the Supreme Court; then the decision of the Superior Court rendered upon such rehearing shall become final in the same manner as though no prior decision had been rendered.

(f) As used in this section, the term "mandate", in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance, means the final mandate. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 4; May 16, 1938, 52 Stat. 371, ch. 223, § 8; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 10, 1952, 66 Stat. 544, ch. 649, § 3(b); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(4); 1973 Ed., § 47-2404; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to complaints to Board of Real Property Assessments and Appeals, see § 47-830.

Section references. — This section is referred to in §§ 25-143, 40-705, 45-934, 47-169, 47-175, 47-825.1, 47-830, 47-831, 47-834, 47-845.1, 47-914, 47-1009, 47-1512, 47-1533, 47-1812.11, 47-1815.1, 47-2021, 47-2319, 47-2413, 47-3305, 47-3310, 47-3717, and 47-3908.

Subject matter jurisdiction of Superior Court to grant refund for taxes illegally or erroneously assessed and voluntarily paid does not attach unless taxpayer has made a complaint to Board of Equalization and Review.

District of Columbia v. Keyes, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Review generally. — Except in cases of absolute exemption, the tax exemption in each year is dependent on the use to which property is put, and original determination of exemption or absence thereof is largely an administrative question for the assessing authorities, and administrative review is available to the Superior Court and review of its decision is available in the District of Columbia Court of Appeals. *Workshop Ctr. of Arts v. District of Columbia*, App. D.C., 145 A.2d 571 (1958).

Time for filing petition. — Where the Superior Court on April 30, 1951, rendered decision on corporation's appeal in respect to business privilege tax, and corporation filed review petition which was served on District of Columbia on May 31 shortly before Court closed its office at 4:45 p.m., and the District with knowledge of sole member of Court, who had been consulted by telephone at his home, put cross petition for review under door of Court's office an hour later, District's cross petition was timely filed within this section requiring petition for review to be filed by District or taxpayer within 30 days after decision. *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29 (D.C. Cir. 1953).

Standard of review. — In an appeal from a decision of the Tax Division in a civil tax case, Court of Appeals adheres to the standard of review applicable to other decisions of the Superior Court in civil cases tried without a jury. *Brisker v. District of Columbia*, App. D.C., 510 A.2d 1037 (1986); *Hutchison Bros. Excavating Co. v. District of Columbia*, App. D.C., 511 A.2d 3 (1986).

Scope of review. — The District of Columbia Court of Appeals has power to review decisions of the Superior Court of the District of Columbia as under equity practice in which whole case, both facts and law, are open for consideration, subject to rule that findings of fact are treated as presumptively correct and accepted unless clearly wrong. *District of Columbia v. Pace*, 320 U.S. 698, 64 S. Ct. 406, 88 L. Ed. 408 (1944).

As to conclusions of law. — The District of Columbia Superior Court's conclusions of law, even if considered factual, are not binding on the Court of Appeals if clearly erroneous. *District of Columbia v. Seven-Up Wash., Inc.*, 214 F.2d 197 (D.C. Cir.), cert. denied, 347 U.S. 989, 74 S. Ct. 851, 98 L. Ed. 1123 (1954).

As to findings of fact. — The District of Columbia Superior Court's findings must be accepted by appellate court unless they are clearly erroneous. *District of Columbia v. Neyman*, 417 F.2d 1140 (D.C. Cir. 1969).

A finding of fact by the Superior Court of the District of Columbia will not be disturbed on appeal unless clearly erroneous. *Connecticut Ave. Cafe, Inc. v. District of Columbia*, 169 F.2d 304 (D.C. Cir. 1948).

Rule 52 of the Federal Rules of Civil Procedure, relating to review of findings of fact generally, held not to supersede special statutory measure of review of decisions of Superior Court of the District of Columbia. *District of Columbia v. Pace*, 320 U.S. 698, 64 S. Ct. 406, 88 L. Ed. 408 (1944).

The Court of Appeals will defer to the trial court's factual determinations, even where it might have viewed the facts otherwise, if the trial judge resolved substantial and conflicting

testimony. *District of Columbia v. National Bank*, App. D.C., 431 A.2d 1 (1981).

Where the parties to an action have stipulated facts to the trial court and all facts of governing significance have been resolved by a previous civil action, the appellate court is at liberty to reverse the trial court on factual interpretations which it feels are erroneous. *District of Columbia v. National Bank*, App. D.C., 431 A.2d 1 (1981).

Findings deemed conclusive. — In proceedings to review assessment of inheritance tax in the District of Columbia, involving question of whether decedent was domiciled in Florida or in the District, Court of Appeals, convinced that the Superior Court was clearly wrong in finding that decedent was domiciled in the District, could not set aside the court's determination. *District of Columbia v. Pace*, 320 U.S. 698, 64 S. Ct. 406, 88 L. Ed. 408 (1944).

Where taxpayer was organized for purpose of lending money on realty but it acquired realty by foreclosure, the finding of Superior Court that the realty was held primarily for sale to customers in ordinary course of business, so that profits on sales were taxable as ordinary income and not as profits derived from sale of "capital assets," was not clearly wrong and could not be disturbed. *Real Estate Mtg. & Guar. Corp. v. District of Columbia*, 141 F.2d 361 (D.C. Cir. 1944).

In proceeding for review of decision of the Superior Court of the District of Columbia that decedent died domiciled in District of Columbia so as to subject his property to inheritance taxes imposed by District of Columbia Code, and that decedent had not retained domicile in state from which he had come to District of Columbia to work for the government, those findings were required to be accepted when not clearly wrong. *Weitknecht v. District of Columbia*, 195 F.2d 570 (D.C. Cir.), cert. denied, 344 U.S. 837, 73 S. Ct. 47, 97 L. Ed. 651 (1952).

No review of question not raised below. — On taxpayer's petition to review decision redetermining petitioner's income tax for 1939 imposed by District of Columbia, petitioner could not question the amount of its gross receipts found by the District and the Superior Court where no such question was raised before the Court, and petitioner had stipulated that the only issue was the correctness of the District's action in using the ratio of District sales to total sales as the sole basis for apportioning petitioner's net income. *Eastman Kodak Co. v. District of Columbia*, 131 F.2d 347 (D.C. Cir. 1942).

Remand. — Where taxpayer pleaded that proposed valuations of personal property were in excess of fair cash value of property, an issue of fact was presented which should have been resolved by a finding and the lack of a finding

and conclusion on the point required the remand of the case to the Superior Court. *District of Columbia v. Morris*, 159 F.2d 13 (D.C. Cir. 1946).

The District of Columbia Court of Appeals, upon finding invalid the prevailing administrative practice in assessment of gross earnings tax against banks in District of Columbia, remanded case with instructions to cancel assessment unless Tax Assessor upon reexamination of entire subject removed discriminations. *Hamilton Nat'l Bank v. District of Columbia*, 156 F.2d 843 (D.C. Cir. 1946).

A remainder interest under a trust, under applicable regulation, in absence of evidence relating to value filed with assessor, would not be deemed to establish a presumption conclusive in the Superior Court that such remainder was without value, but under such regulation remainderman had burden of introducing such evidence as would enable the Court to find market value of remainder was less than figure on which tax was assessed, but in view of remainderman's misinterpretation of such regulation, decision denying him relief would be set aside and remanded to permit remainderman to introduce evidence of market value. *Alabama Polytechnic Inst. v. District of Columbia*, 250 F.2d 408 (D.C. Cir. 1957).

No error in rejecting method of computation. — Where previous judgment of trial court required real property tax assessment of all single-family property at 55 percent, trial court did not err in rejecting District of Columbia's method of computation which was designed to comply with such judgment and which resulted in average level of assessment of 55.00772 percent, in ordering that District recompute assessed value, correct tax roll and reissue supplementary tax bills or refunds within 90 days using method suggested by trial court which was designed to reach greater mathematical exactitude in computation of real property taxes, and in declining to view as de minimis differences in amounts of real property taxes between the methods of computation. *District of Columbia v. Green*, App. D.C., 348 A.2d 305 (1975).

Finality of refund order. — Trial court erred in directing District to refund property tax overpayment within 10 days of its order; the requisite finality is defined by this section and §§ 47-1317 and 47-3306 and is not satis-

fied by mere lapse of 10 days after entry of trial court's order. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

Time limitation as to tax overpayment refunds. — The reference in § 47-3310(a) to § 47-3303 and this section was meant to set forth the nature of the judicial remedy available to the taxpayer claiming a refund in the event that he was unsuccessful in obtaining such refund; it was not meant to impose on refund claimants the time limitation contained in § 47-3303. *Carter-Lanhardt, Inc. v. District of Columbia*, App. D.C., 413 A.2d 916 (1980).

Effect of payment under protest. — When taxpayer who had been previously taxed on basis of his equitable interest in marginal stocks, but is then reassessed by tax authorities for full value, a payment under protest raises the question whether such new assessment was without authority of law. *Hunt v. District of Columbia*, 108 F.2d 10 (D.C. Cir. 1940).

Recovery of attorney fees. — The fact that successful taxpayer-litigants against District of Columbia prevented the collection of illegally imposed taxes, rather than required their refund after collection, could not, in principle, defeat their recovery of attorney fees as successful litigants; thus, the common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant could be applied on basis of tax savings realized by affected taxpayers and trial court could exercise jurisdiction over District of Columbia to require collection of appropriate fees from the benefited taxpayers, unless such course of action is otherwise prohibited or unwarranted. *District of Columbia v. Green*, App. D.C., 381 A.2d 578 (1977).

Cited in *Trustees of Nineteenth St. Baptist Church v. District of Columbia*, App. D.C., 385 A.2d 8 (1978); *Wyner v. District of Columbia*, App. D.C., 411 A.2d 59 (1980); *District of Columbia v. Washington Sheraton Corp.*, App. D.C., 499 A.2d 109 (1985); *Safeway Stores, Inc. v. District of Columbia*, App. D.C., 525 A.2d 207 (1987); *District of Columbia v. Acme Reporting Co.*, App. D.C., 530 A.2d 708 (1987); *George Wash. Univ. v. District of Columbia*, App. D.C., 563 A.2d 759 (1989); *Hessey v. Burden*, App. D.C., 584 A.2d 1 (1990); *Wolf v. District of Columbia*, App. D.C., 597 A.2d 1303 (1991).

§ 47-3305. Appeals of real estate assessments.

(a) Any person aggrieved by any assessment or valuation made in pursuance of § 47-829 between January 1 and June 30 may, within 6 months after April 15 following the year in which said valuation or assessment is made, appeal from such assessment or valuation in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, however, that if the

taxpayer shall be notified in writing not later than September 1st of a particular year of the valuation of the real estate valued in accordance with § 47-829, such taxpayer shall first make a complaint to the Board of Real Property Assessments and Appeals respecting such assessment as herein provided.

(b) Any person aggrieved by any assessment made in pursuance of § 47-830 may, within 6 months after April 15th of the year in which such assessment is made, appeal from such assessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, however, that if the taxpayer shall be notified in writing not later than March 1st of a particular year of the valuation of the real estate valued in accordance with § 47-830, such taxpayer shall first make a complaint to the Board of Real Property Assessments and Appeals respecting such assessment as herein provided.

(c) Any person aggrieved by any reassessment made in pursuance of § 47-831, may within 6 months after notice of said reassessment, appeal from said reassessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(d) Any person aggrieved by a reassessment or redistribution made pursuant to § 47-834, may within 6 months after notice of such reassessment or redistribution, appeal from such reassessment or redistribution in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(e) If BNA and BNAW are aggrieved by any assessment of real property tax, penalty, and interest on the subject real property made in pursuance of § 47-845.1(h), BNA and BNAW may within 6 months after notice of said assessment, appeal from the assessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304). (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 5; May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 26, 1939, 53 Stat. 1109, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 544, ch. 649, § 3(c); July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); 1973 Ed., § 47-2405; Sept. 3, 1974, 88 Stat. 1065, Pub. L. 93-407, title IV, § 474(g); Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 9; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 4(b), 41 DCR 2050; Apr. 9, 1997, D.C. Law 11-219, § 3, 43 DCR 6176; Apr. 9, 1997, D.C. Law 11-250, § 3, 44 DCR 1253; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to composition and functions of Board of Real Property Assessments and Appeals, see § 47-825.1.

Section references. — This section is referred to in § 47-825.1.

Effect of amendments. — D.C. Law 11-250 added (e).

Temporary amendment of section. — Section 3 of D.C. Law 11-219 added (e).

Section 5(b) of D.C. Law 11-219 provided that the act shall expire after 255 days of its having taken effect or upon the effective date of the BNA Washington, Inc., Real Property Tax Deferral Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 3 of the BNA Washington, Inc., Real Property Tax De-

ferral Emergency Amendment Act of 1996 (D.C. Act 11-365, August 15, 1996, 43 DCR 4588), see § 3 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658), § 3 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 3 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

Section 5 of D.C. Act 11-365 provides for application of the act.

Section 8 of D.C. Act 11-440 provides for application of the act.

Section 7 of D.C. Act 11-475 provides for application of the act.

Section 8 of D.C. Act 12-53 provides for application of the act.

For temporary application of the provisions of D.C. Act 11-440 to the tax year beginning October 1, 1996, and ending September 30, 1997, and for each tax year thereafter through September 30, 1997, see § 7 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658).

For temporary repeal of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996), see § 8(a) of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 9(a) of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

For temporary repeal of the BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1996 (D.C. Act 11-433, October 18, 1996, 43 DCR 6176), see § 8(b) of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 9(b) of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR 2209).

Legislative history of Law 9-241. — See note to § 47-3301.

Legislative history of Law 10-127. — Law 10-127, the “Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-450, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 1, 1994, and March 22, 1994, respectively. Signed by the Mayor on April 13, 1994, it was assigned Act No. 10-221 and transmitted to both Houses of Congress for its review. D.C. Law 10-127 became effective on June 14, 1994.

Legislative history of Law 11-219. — Law 11-219, the “BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-817, which was retained by Council. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-433 and transmitted to both Houses of Congress for its review. D.C. Law 11-219 became effective on April 9, 1997.

Legislative history of Law 11-250. — Law 11-250, the “BNA Washington, Inc., Real Property Tax Deferral Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-818, which was referred to the Committee on the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-514 and transmitted to both Houses of Congress for its review. D.C. Law 11-250 became effective on April 9, 1997.

Authority to reduce. — The Superior Court of the District of Columbia has authority to reduce an assessment of real property made by Assessor and approved by Board of Equalization and Review, notwithstanding the absence of a showing that the assessment is capricious or arbitrary or so at variance with true value as to be actually or constructively fraudulent. *Watrous v. District of Columbia*, 135 F.2d 654 (D.C. Cir. 1943).

The court has power to reduce an assessment, notwithstanding absence of showing that assessment was capricious or arbitrary, under § 47-3303 providing that the court may affirm, cancel, reduce, or increase assessment. *Watrous v. District of Columbia*, 135 F.2d 654 (D.C. Cir. 1943).

Necessity of complaint. — Subject matter jurisdiction of Superior Court to grant refund for taxes illegally or erroneously assessed and voluntarily paid does not attach unless taxpayer has made a complaint to Board of Equalization and Review. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Equitable intervention held not justified. — Where taxpayers, who did not appeal within permitted time to Board of Equalization and Review, sought refund of portion of taxes paid due to change in level of assessment from 55 percent to 60 percent of estimated value as part of “stairstep” approach to achieve phased increase in debasement factor for single-family residential properties equitable intervention was held not justified on theory that District officials’ concealment of “stairstep” plan prevented taxpayers from pursuing administrative remedies, in light of fact that other taxpayers were able to discover “stairstep” plan while pursuing administrative remedies. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Injunctive relief permitted. — Where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative reme-

dies. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), *aff'd*, App. D.C., 348 A.2d 305 (1975).

Where real property owners who had not sought administrative review of District of Columbia tax assessments were excused from so doing because of lack of knowledge that debasement factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), *aff'd*, App. D.C., 348 A.2d 305 (1975).

No error in rejecting method of computation. — Where previous judgment of trial court required real property tax assessment of all single-family property at 55 percent, trial court did not err in rejecting District of Columbia's method of computation which was designed to comply with such judgment and which resulted in average level of assessment of 55.00772 percent, in ordering that District recompute assessed value, correct tax roll and reissue supplementary tax bills or refunds within 90 days using method suggested by trial court which was designed to reach greater mathematical exactitude in computation of real property taxes, and in declining to view as de minimis differences in amounts of real property taxes between the methods of computation. *District of Columbia v. Green*, App. D.C., 348 A.2d 305 (1975).

§ 47-3306. Refund of erroneous collections.

Any sum finally determined by the Superior Court to have been erroneously paid by or collected from the taxpayer shall be refunded by the District to the taxpayer from its annual appropriation for refunding erroneously paid taxes in said District. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 7; May 16, 1938, 52 Stat. 374, ch. 223, § 8; July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(g); 1973 Ed., § 47-2407; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessment complaints, see § 47-829.

Section references. — This section is referred to in §§ 25-143, 40-705, 45-934, 47-169, 47-175, 47-914, 47-1512, 47-1533, 47-1812.11, 47-1815.1, 47-2021, and 47-2413.

Necessity of statute. — Taxes which are illegally or erroneously assessed and voluntarily paid cannot be refunded absent an authorizing statute. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), *cert. denied*, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Refunds of taxes cannot be made absent an authorizing statute. *District of Columbia v. National Bank*, App. D.C., 431 A.2d 1 (1981).

Subject matter jurisdiction of Superior

Court's cancellation of District's assessment and rejection of taxpayer's proposed assessment held not abuse of discretion. — See *Brisker v. District of Columbia*, App. D.C., 510 A.2d 1037 (1986).

Recovery of attorney fees. — The fact that successful taxpayer-litigants against District of Columbia prevented the collection of illegally imposed taxes, rather than required their refund after collection, could not, in principle, defeat their recovery of attorney fees as successful litigants; thus, the common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant could be applied on basis of tax savings realized by affected taxpayers and trial court could exercise jurisdiction over District of Columbia to require collection of appropriate fees from the benefited taxpayers, unless such course of action is otherwise prohibited or unwarranted. *District of Columbia v. Green*, App. D.C., 381 A.2d 578 (1977).

Cited in *Washington Sheraton v. District of Columbia*, 111 WLR 1053 (Super. Ct. 1983); *1111 19th St. Assocs. v. District of Columbia*, 112 WLR 1317 (Super. Ct. 1983); *National Trust for Historic Preservation in United States v. District of Columbia*, App. D.C., 498 A.2d 574 (1985); *1827 M St., Inc. v. District of Columbia*, App. D.C., 537 A.2d 1078 (1988).

Court to grant refund for taxes illegally or erroneously assessed and voluntarily paid does not attach unless taxpayer has made a complaint to Board of Equalization and Review. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), *cert. denied*, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Equitable intervention not justified. — In case where taxpayers, who did not appeal within permitted time to Board of Equalization and Review, sought refund of portion of taxes paid due to change in level of assessment from 55 percent to 60 percent of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention

was held not justified on theory that District officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies, in light of fact that other taxpayers were able to discover "stairstep" plan while pursuing administrative remedies. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

Even if it were appropriate to apply principles of equity in uncertified class action, in which taxpayers seek refund in taxes paid due to certain change in level of assessment and in which taxpayers allege that District's treatment of the tax matter in question is not characterized by candor or adherence to principles of good fiscal management, award of such refunds on equitable principles is not justified in that adverse impact of refunds on citizenry outweighs economic interest of plaintiff taxpayers. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), cert. denied, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

No error in rejecting method of computation. — Where previous judgment of trial court required real property tax assessment of

all single-family property at 55 percent, trial court did not err in rejecting District of Columbia's method of computation which was designed to comply with such judgment and which resulted in average level of assessment of 55.00772 percent, in ordering that District recompute assessed value, correct tax roll and reissue supplementary tax bills or refunds within 90 days using method suggested by trial court which was designed to reach greater mathematical exactitude in computation of real property taxes, and in declining to view as de minimis differences in amounts of real property taxes between the methods of computation. *District of Columbia v. Green*, App. D.C., 348 A.2d 305 (1975).

Finality of refund order. — Trial court erred in directing District to refund property tax overpayment within 10 days of its order; the requisite finality is defined by this section and §§ 47-1317 and 47-3304 and is not satisfied by mere lapse of 10 days after entry of trial court's order. *District of Columbia v. Burlington Apt. House Co.*, App. D.C., 375 A.2d 1052 (1977).

§ 47-3307. Certain suits forbidden.

No suit shall be filed to enjoin the assessment or collection by the District of Columbia or any of its officers, agents, or employees of any tax. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 10; May 16, 1938, 52 Stat. 375, ch. 223, § 8; 1973 Ed., § 47-2410; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to assessment complaints, see § 47-830.

Section references. — This section is referred to in §§ 25-143, 40-705, 45-934, 47-169, 47-175, 47-914, 47-1512, 47-1533, 47-1812.11, 47-1815.1, 47-2021, and 47-2413.

Suit for injunction may be entertained. — Statutory ban against injunction to restrain collection of taxes is more honored in the breach than in the observance, and upon a showing of considerations that appeal to discretion of court of equity, suit for injunction may be entertained and determination of validity of tax made in such summary and expeditious manner. *District of Columbia Transit Sys. v. Pearson*, 149 F. Supp. 18 (D.D.C. 1957).

Suits to enjoin collection of taxes are prohibited by this section, except in exceptional and extraordinary circumstances. 1776 K St. Assocs. v. District of Columbia, App. D.C., 446 A.2d 1114 (1982).

Where facts of case are so exceptional and extraordinary as to merit equitable relief, a court has jurisdiction to enjoin tax authorities from using unequal levels of assessment of estimated market value of single-fam-

ily dwellings for purposes of ascertaining District of Columbia real estate tax to be imposed on such dwellings despite provisions of this section stating that no suit might be filed to enjoin assessment of any tax. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), aff'd, App. D.C., 348 A.2d 305 (1975).

For example, where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative remedies. *District of Columbia v. Green*, App. D.C., 310 A.2d 848 (1973), aff'd, App. D.C., 348 A.2d 305 (1975).

Where real property owners who had not sought administrative review of District of Columbia tax assessments were excused from so doing because of lack of knowledge that debase-ment factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. *District of Columbia v.*

Green, App. D.C., 310 A.2d 848 (1973), *aff'd*, App. D.C., 348 A.2d 305 (1975).

But equitable intervention not justified if "discovery" possible in administrative remedies. — In case wherein taxpayers, who did not appeal within permitted time to Board of Equalization and Review, sought refund of portion of taxes paid due to change in level of assessment from 55 percent to 60 percent of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention was held not justified on theory that District officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies. *District of Columbia v. Keyes*, App. D.C., 362 A.2d 729 (1976), *cert. denied*, 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360 (1977).

And no injunction where adequate remedy at law. — Where taxpayer had an adequate remedy at law by payment of the gross receipts tax, claim for refund, and either an appeal to the Superior Court of the District of Columbia or a civil action therein, suit for injunction against collection of the tax would not lie. *District of Columbia Transit Sys. v. Pearson*, 250 F.2d 765 (D.C. Cir. 1957).

The proper standard for determining whether equitable relief may be obtained against the collection of any tax requires: 1) A finding that under no circumstances could the government ultimately prevail, and 2) that equity jurisdiction otherwise exists, that is, proof of irreparable injury and inadequacy of the legal remedy. *Barry v. AT & T Co.*, App. D.C., 563 A.2d 1069 (1989), *rev'd sub nom.* on other grounds, *Sprint Communications Co. v. Kelly*, App. D.C., 642 A.2d 106, *cert. denied*, — U.S. —, 115 S. Ct. 294, 130 L. Ed. 2d 208 (1994).

Injunctive and declaratory relief barred before payment. — This section applies with equal force to bar suits for injunctive and declaratory relief before payment of the challenged assessment. *Barry v. AT & T Co.*, App. D.C., 563 A.2d 1069 (1989), *rev'd sub nom.* on other grounds, *Sprint Communications Co. v. Kelly*, App. D.C., 642 A.2d 106, *cert. denied*, — U.S. —, 115 S. Ct. 294, 130 L. Ed. 2d 208 (1994).

Authority of court generally. — Under § 47-3303 and this section, a suit seeking the avoidance or adjustment of taxes paid to the District will lie only after certain paths are taken (i.e., the taxes are paid and then challenged), and where the statutory prerequisites are not met, the trial court is without jurisdiction to enjoin the taxes. The word "tax" is not a talisman that deprives the trial court of jurisdiction to remedy wrongs with which tax questions are intertwined. While a trial court did not have power to order a blanket cancellation of taxes, it retained broad discretion to fashion an appropriate discovery remedy short of "cancellation" of the taxes. *District of Columbia v. United Jewish Appeal Fed'n of Greater Wash., Inc.*, App. D.C., 672 A.2d 1075 (1996).

Taxpayers held not entitled to injunction barring collection of disputed tax. — Taxpayers, who concededly had not met the jurisdictional prerequisites for filing suit for a refund of real property taxes based on an unlawful assessment, are not entitled to an injunction barring collection of the disputed tax. *National Trust for Historic Preservation in United States v. District of Columbia*, App. D.C., 498 A.2d 574 (1985).

Sale of personalty not enjoined. — The fact that owner of household furniture and personal effects and holder of lien on such personalty considered costs incurred in proceedings for collection for personal property taxes against personalty to be excessive did not provide basis to enjoin Tax Collector from having personalty sold for personal property taxes, at least where there was no showing that there were no appropriate remedies at law. *Pearson v. Laughlin*, 190 F.2d 658 (D.C. Cir. 1951).

Where plaintiff in action to enjoin sale of furniture and personal effects for property taxes had only a lien on property, so that plaintiff's claims furnished no basis for saying distraint was illegal, and Tax Collector had given assurances that sale would be subject to outstanding liens, sale would not be enjoined. *Pearson v. Laughlin*, 190 F.2d 658 (D.C. Cir. 1951).

§ 47-3308. Manner of serving notices.

Any notice authorized or required under the provisions of this chapter may be given by mailing the same to the person for whom it is intended, addressed to such person at the address given in any return filed by him, or, if no return has been filed, then to his last-known address. The proof of mailing of any notice mentioned in this chapter shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which must be determined under the provisions of this chapter by the giving of notice shall commence to run from the date of mailing of such notice. (Aug. 17, 1937, 50

Stat. 692, ch. 690, title IX, § 11; May 16, 1938, 52 Stat. 375, ch. 223, § 8; 1973 Ed., § 47-2411; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 25-143, 40-705, 45-934, 47-169, 47-175, 47-914, 47-1512, 47-1533, 47-1812.11, 47-1815.1, 47-2021, 47-2413, 47-3717, and 47-3908.

§ 47-3309. Reference by Mayor to the Superior Court.

In any matter affecting taxation, the determination of which is by law left to the discretion of the Mayor, the Mayor may, if he so elects, refer such matter to the Superior Court to make findings of fact and submit recommendations, such findings of fact and recommendations, if any, to be advisory only and not binding on the Mayor, and shall be without prejudice to the Mayor to make such further and other inquiry and investigation concerning such matter as he in his discretion shall consider necessary or advisable. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 13; July 26, 1939, 53 Stat. 1110, ch. 367, title IV, § 5(c); July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(g); 1973 Ed., § 47-2412; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-3310. Overpayments; refund; appeal.

(a) Where there has been an overpayment of any tax, the amount of the overpayment shall be refunded to the taxpayer. No refund (other than inheritance and estate taxes) shall be allowed after 2 years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of taxes (other than inheritance and estate taxes) shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim or, if no claim is filed, then the 2 years immediately preceding the allowance of the refund. No refund of inheritance and estate taxes shall be allowed after 3 years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of inheritance and estate taxes shall not exceed the portion of the tax paid during the 3 years immediately preceding the filing of the claim or, if no claim is filed, then during the 3 years immediately preceding the allowance of the refund. Every claim for refund must be in writing under oath, must state the specific grounds on which it is founded, and must be filed with the Mayor. If the Mayor disallows all or any part of the refund claim, he shall notify the taxpayer by registered or certified mail. After receiving notice of disallowance, if the claim is acted upon within 6 months of filing, or after the expiration of 6 months from the date of filing if the claim is not acted upon, the taxpayer may appeal as provided in §§ 47-3303 and 47-3304 of this title. This subsection does not apply to real estate taxes, alcoholic beverage tax, motor-vehicle fuel tax or to the taxes imposed by Chapter 18 of this title, or by Chapters 20 and 22 of this title, refunds of which are otherwise provided for by law.

(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Mayor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 6% per annum from the date the overpayment was paid until the date of refund except:

(1) Interest shall be allowed and paid only from the date of filing a claim for refund or a petition to the Superior Court, as the case may be, on that part of any overpayment that was not assessed and then paid as a deficiency or as additional tax; and

(2) Interest shall be allowed and paid only up to 6 years from the date the vendor filed with the Mayor the bond or prepayment with surety approved by the Mayor on the part of any overpayment that was a bond or prepayment with surety approved by the Mayor, as required by § 26a(d) (1) of A Regulation Governing Vending Businesses in Public Space (Reg. 74-39; 24 DCMR 524.7), except no interest shall be allowed and paid for any months after December 31, 1993.

(d) For purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of the overpayment of tax. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 14; July 10, 1952, 66 Stat. 546, ch. 649, § 4; June 11, 1960, 74 Stat. 204, Pub. L. 86-507, § 1(56); June 27, 1960, 74 Stat. 224, Pub. L. 86-528, § 1; July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(7); 1973 Ed., § 47-2413; Sept. 13, 1980, D.C. Law 3-92, § 601, 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 402, 29 DCR 2418; May 21, 1988, D.C. Law 7-121, § 3, 35 DCR 2695; Aug. 6, 1993, D.C. Law 10-11, § 114, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 114, 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to certified mail receipts as prima facie evidence of delivery, see § 14-506.

Section references. — This section is referred to in §§ 45-935, 47-915, 47-1532, 47-1812.11, 47-2021 and 47-3915.

Legislative history of Law 3-92. — Law 3-92, the “District of Columbia Revenue Act of 1980,” was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

Legislative history of Law 4-131. — See note to § 47-3303.

Legislative history of Law 7-121. — Law 7-121, the “Vendors Regulation Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-303, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988,

it was assigned Act No. 7-167 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-11. — Law 10-11, the “Omnibus Budget Support Temporary Act of 1993,” was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

Legislative history of Law 10-25. — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Applicability of 1980 amendment to refunds. — Section 602 of the Act of September 13, 1980, D.C. Law 3-92, provided that the

provisions of the 1980 amendment to this section shall apply only with respect to refunds for which both the claims for refund were filed and the liability for refund was determined (either by court action or administratively) after July 1, 1980.

Claim must be filed in time prescribed.

— Where claim for refund of a District of Columbia estate tax was not filed within 2 years of payment of the tax, the Court had no jurisdiction to decide anything, and if it had jurisdiction it had no authority to do otherwise than deny petitioner's claim in view of this section providing no refund of an overpayment shall be allowed after 2 years from date the tax is paid unless, before the expiration of such period, claim therefor is filed by the taxpayer. *American Sec. & Trust Co. v. District of Columbia*, 235 F.2d 19 (D.C. Cir. 1956).

Mere notice of challenge to taxing statute insufficient to comply with subsection (c). — Mere notice that the taxing statute has been challenged will not be sufficient to comply with subsection (c) of this section; individual claims are needed so that the District will know the exact amount of refunds actually claimed and can plan accordingly. *Kleiboemer v. District of Columbia*, App. D.C., 458 A.2d 731 (1983), cert. denied, 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683 (1984).

Time limitation for court appeal. — The reference in subsection (a) of this section to §§ 47-3303 and 47-3304 was meant to set forth the nature of the judicial remedy available to the taxpayer claiming a refund in the event that he was unsuccessful in obtaining such refund; it was not meant to impose on refund claimants the time limitation contained in § 47-3303. *Carter-Lanhardt, Inc. v. District of Columbia*, App. D.C., 413 A.2d 916 (1980).

The deletion (District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91-358, 84 Stat. 579 (1970)) of a specific limitations period from subsection (a) of this section, without substitution of a different specific limitations period, indicates Congressional intent to allow the general 3-year limitations period of § 12-301(8) to apply cases involving appeals to a trial court for refunds of taxes.

Carter-Lanhardt, Inc. v. District of Columbia, App. D.C., 413 A.2d 916 (1980).

Failure to comply with jurisdictional requirements. — Where, before taxpayers elected to invoke appeal procedure to the Superior Court of the District of Columbia for review of underlying assessment of real estate taxes, they could have chosen to utilize common-law remedies expressly available under this section, but once they elected to file an appeal under § 47-3303 they apparently lost that right, though taxpayers might be without a remedy, it was due to their own failure to comply with jurisdictional requirements of procedure they elected to invoke and not due to any deprivation occasioned by the statutory scheme itself, and prepayment requirement that taxpayer first pay the tax before appeal may be taken did not visit any undue hardship upon taxpayers and did not violate due process clause. *District of Columbia v. Berenter*, 466 F.2d 367 (D.C. Cir. 1972).

Interest on tax overpayment runs from date refund claim filed. — Interest on the taxpayer's payment of the tax, not assessed as a deficiency or as additional tax, must run from the date the taxpayer filed a petition or claim for refund, rather than from the date the taxpayer overpaid the tax. *Kleiboemer v. District of Columbia*, App. D.C., 466 A.2d 846 (1983), cert. denied, 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683 (1984).

Refunds of taxes cannot be made absent authorizing statute. *District of Columbia v. National Bank*, App. D.C., 431 A.2d 1 (1981).

Reliance on advice of Recorder. — It is not reasonable for anyone (especially an attorney) to rely upon the personal word of the Deputy Recorder of Deeds for definitive advice as the deadline for seeking a judicial remedy. *Askin v. District of Columbia*, 123 WLR 1605 (Super. Ct. 1995).

Cited in *Andrews v. District of Columbia*, App. D.C., 443 A.2d 566, cert. denied, 459 U.S. 909, 103 S. Ct. 216, 74 L. Ed. 2d 172 (1982); *National Trust for Historic Preservation in United States v. District of Columbia*, App. D.C., 498 A.2d 574 (1985); *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

CHAPTER 34. MISCELLANEOUS PROVISIONS.

Sec.	Sec.
47-3401. Transitional provision for short-term advances.	47-3405. Same — Duties of Mayor and Council; submittal of request to President [Home Rule Act Provision].
47-3401.1. Short-term advances for seasonal cash-flow management.	47-3406. Same — Appropriation authorization [Home Rule Act Provision].
47-3401.2. Security for advances.	47-3406.1. Federal payment formula.
47-3401.3. Reimbursement to the Treasury.	47-3407. Regulations.
47-3401.4. Definitions.	47-3408. Severability.
47-3402. Annual payment by the United States — Appropriations — Generally.	47-3409. Divulging information obtained from Internal Revenue Service prohibited; penalties.
47-3403. Same — Same — Employee pay increases.	47-3410. Effect of District of Columbia Tax Enforcement Act of 1982.
47-3404. Same — Same — Deficiency.	

§ 47-3401. Transitional provision for short-term advances.

(a) *Transitional short-term advances made before October 1, 1995.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress.

(2) *Conditions to making any transitional short-term advance before October 1, 1995.* — The Secretary shall make an advance under this subsection if the following conditions are satisfied:

(A) The Mayor delivers to the Secretary a requisition for an advance under this section;

(B) As of the date on which the requisitioned advance is to be made, the Authority has not approved a financial plan and budget for the District government as meeting the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(C) The date on which the requisitioned advance is to be made is not later than September 30, 1995;

(D) The District government has delivered to the Secretary:

(i) A schedule setting forth the anticipated timing and amounts of requisitions for advances under this subsection; and

(ii) Evidence demonstrating to the satisfaction of the Secretary that the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's financing needs;

(E) The Secretary determines that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated as the annual federal payment to the District of Columbia under title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1996; and

(F) Except during the 45-day period beginning on the date of the appointment of the members of the Authority, the Authority makes the findings described in § 47-392.4.

(3) *Amount of any transitional short-term advance made before October 1, 1995.* —

(A) *In general.* — Except as provided in subparagraph (C) of this paragraph, if the conditions described in subparagraph (B) of this paragraph are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance, except that:

(i) The total amount requisitioned under this subsection during the 30-day period which begins on the date of the first requisition made under this subsection may not exceed 33 $\frac{1}{3}$ % of the fiscal year 1995 limit;

(ii) The total amount requisitioned under this subsection during the 60-day period which begins on the date of the first requisition made under this subsection may not exceed 66 $\frac{2}{3}$ % of the fiscal year 1995 limit; and

(iii) The total amount requisitioned under this subsection after the expiration of the 60-day period which begins on the date of the first requisition made under this subsection may not exceed 100% of the fiscal year 1995 limit.

(B) *Conditions applicable to designated amount.* — Subparagraph (A) of this paragraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and (except during the 45-day period beginning on the date of the appointment of the members of the Authority) the Authority approves such amount.

(C) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this subsection may not be greater than the fiscal year 1995 limit.

(D) *Fiscal year 1995 limit described.* — In this paragraph, the "fiscal year 1995 limit" means the amount authorized to be appropriated to the District of Columbia as the annual federal payment to the District of Columbia under Title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1995.

(4) *Maturity of any transitional short-term advance made before October 1, 1995.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, each advance made under this subsection shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(B) *Latest permissible maturity date.* — Notwithstanding subparagraph (A) of this paragraph, the maturity date for any advance made under this subsection shall not be later than October 1, 1995.

(5) *Interest rate.* — Each advance made under this subsection shall bear interest at an annual rate equal to the rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus $\frac{1}{8}$ of 1%.

(6) *Deposit of advances.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, each advance made under this subsection for the account of the

District government shall be deposited by the Secretary into such account as is designated by the Mayor in the Mayor's requisition for such advance.

(B) *Exception.* — Notwithstanding subparagraph (A) of this paragraph, if (in accordance with § 47-392.4(b)(2) the Authority delivers a letter requesting the Secretary to deposit all advances made under this subsection for the account of the District government in an escrow account held by the Authority, each advance made under this subsection for the account of the District government after the date of such letter shall be deposited by the Secretary into the escrow account specified by the Authority in such letter.

(b) *Transitional short-term advances made on or after October 1, 1995, and before February 1, 1996.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B), paragraphs (2), (4), and (5) of section (a) of this section (other than subparagraph (F) of paragraph (2)) shall apply to any advance made under this subsection.

(B) *Exceptions.* —

(i) *New conditions precedent to making advances.* — The conditions described in subsection (a)(2) of this section shall apply with respect to making advances on or after October 1, 1995, in the same manner as such conditions apply with respect to making advances before October 1, 1995, except that:

(I) Subsection (a)(2)(C) of this section (relating to the last day on which advances may be made) shall be applied as if the reference to "September 30, 1995" were a reference to "January 31, 1996";

(II) Subsection (a)(2)(E) of this section (relating to the Secretary's determination of reasonable assurance of reimbursement from the annual federal payment appropriated to the District of Columbia) shall be applied as if the reference to "September 30, 1996" were a reference to "September 30, 1997";

(III) The Secretary may not make an advance under this subsection unless all advances made under subsection (a) of this section are fully reimbursed by withholding from the annual federal payment appropriated to the District of Columbia for the fiscal year ending September 30, 1996, under Title V of the District of Columbia Self-Government and Governmental Reorganization Act, and applying toward reimbursement for such advances an amount equal to the amount needed to fully reimburse the Treasury for such advances; and

(IV) The Secretary may not make an advance under this subsection unless the Authority has provided the Secretary with the prior certification described in § 47-392.4(a)(1).

(ii) *New latest permissible maturity date.* — The provisions of subsection (a)(4) of this section shall apply with respect to the maturity of advances made after October 1, 1995, in the same manner as such provisions apply with respect to the maturity of advances made before October 1, 1995, except that

subparagraph (B) of such subsection (relating to the latest permissible maturity date) shall apply as if the reference to "October 1, 1995" were a reference to "October 1, 1996".

(C) *New maximum amount outstanding.* —

(i) *In general.* — Except as provided in sub-subparagraph (iii) of this subparagraph, if the conditions described in sub-subparagraph (ii) of this subparagraph are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(ii) *Conditions applicable to designated amount.* — Sub-subparagraph (i) of this subparagraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and the Authority approves such amount.

(iii) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this paragraph may not be greater than 60% of the fiscal year 1996 limit.

(D) *Deposit of advances.* — As provided in § 47-392.4(b), each advance made under this subsection for the account of the District shall be deposited by the Secretary into an escrow account held by the Authority.

(E) *Fiscal Year 1996 limit described.* — In this paragraph, the term "Fiscal Year 1996 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under Title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1996.

(c) *Transitional short-term advances made on or after February 1, 1996, and before October 1, 1996.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, subsection (b)(2) of this section shall apply to any advance made under this subsection.

(B) *Exceptions.* — The conditions applicable under subsection (b)(2) of this section (other than paragraph (2)(B) of subsection (a)) shall apply with respect to making advances on or after February 1, 1996, and before October 1, 1996, in the same manner as such conditions apply to making advances under such subsection, except that:

(i) In applying subparagraph (C) of subsection (a)(2) (as described in subsection (b)(2)(B)(i)(I)), the reference to "October 1, 1995" shall be deemed to be a reference to "September 30, 1996";

(ii) Subparagraph (C)(iii) of subsection (b)(2) shall apply as if the reference to "60%" were a reference to "40%"; and

(iii) No advance may be made unless the Secretary has been provided the certifications and information described in § 47-3401.1(b)(3) through (6).

(d) *Transitional short-term advances made on or after October 1, 1996, and before October 1, 1997.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, paragraphs (2), (4), and (5) of subsection (a) of this section (other than subparagraphs (B) and (F) of paragraph (2)) shall apply to any advance made under this subsection.

(B) *Exceptions.* —

(i) *New conditions precedent to making advances.* — The conditions described in subsection (a)(2) of this section shall apply with respect to making advances on or after October 1, 1996, and before October 1, 1997, in the same manner as such conditions apply with respect to making advances before October 1, 1995, except that:

(I) Subparagraph (C) of this paragraph (relating to the last day on which advances may be made) shall be applied as if the reference to “September 30, 1995” were a reference to “September 30, 1997”;

(II) Subparagraph (E) of this paragraph (relating to the Secretary’s determination of reasonable assurance of reimbursement from the annual federal payment appropriated to the District of Columbia) shall be applied as if the reference to “September 30, 1996” were a reference to “September 30, 1997”;

(III) The Secretary may not make an advance under this subsection unless all advances made under subsections (b) and (c) of this section are fully reimbursed by withholding from the annual federal payment appropriated to the District of Columbia for the fiscal year ending September 30, 1997, under Title V of the District of Columbia Self-Government and Governmental Reorganization Act, and applying toward reimbursement for such advances an amount equal to the amount needed to fully reimburse the Treasury for such advances; and

(IV) The Secretary may not make an advance under this subsection unless the Secretary has been provided the certifications and information described in § 47-3401.1(b)(3) through (6).

(ii) *New latest permissible maturity date.* — The provisions of subsection (a)(4) of this section shall apply with respect to the maturity of advances made under this subsection, in the same manner as such provisions apply with respect to the maturity of advances made before October 1, 1995, except that subparagraph (B) of such subsection (relating to the latest permissible maturity date) shall apply as if the reference to “September 30, 1995” were a reference to “September 30, 1997”.

(C) *New maximum amount outstanding.* —

(i) *In general.* — Except as provided in sub-subparagraph (iii) of this subparagraph, if the conditions described in sub-subparagraph (ii) of this subparagraph are satisfied, each advance made under this subsection shall be

in the amount designated by the Mayor in the Mayor's requisition for such advance.

(ii) *Conditions applicable to designated amount.* — Sub-subparagraph (i) of this subparagraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and the Authority approves such amount.

(iii) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this paragraph may not be greater than 100% of the fiscal year 1997 limit.

(iv) *Fiscal Year 1997 limit described.* — In this subparagraph, the term "Fiscal Year 1997 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under Title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year ending September 30, 1997.

(D) *Deposit of advances.* — As provided in § 47-392.4(b), each advance made under this subsection for the account of the District shall be deposited by the Secretary into an escrow account held by the Authority. (Aug. 17, 1937, 50 Stat. 692, ch. 690, title VII, § 2; May 16, 1938, 52 Stat. 369, ch. 223, § 7; July 26, 1939, 53 Stat. 1118, ch. 367, title VI; Mar. 2, 1940, 54 Stat. 39, ch. 37, § 3; June 27, 1942, 56 Stat. 460, ch. 452, § 11; June 28, 1944, 58 Stat. 533, ch. 300, § 14; 1973 Ed., § 47-2501; Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to deposit of advance in General Fund, see § 47-131.

As to advances from miscellaneous trust fund deposits, see § 47-411.

Section references. — This section is referred to in §§ 47-313, 47-391.7, 47-392.4, 47-392.5, 47-392.8, 47-392.9, 47-3401.1, 47-3401.2, and 47-3401.3.

Effect of amendments. — Section 204(c) of Pub. L. 104-8, 109 Stat. 120, rewrote this section.

References in text. — The District of Columbia Financial Responsibility and Management Assistance Act of 1995, referred to in (a)(2)(B), is Pub. Law 104-8, 109 Stat. 97, which is codified primarily as §§ 47-317.1 et seq. and 47-391.1 et seq.

"Title V of the District of Columbia Self-Government and Governmental Reorganization Act," referred to in (a)(3)(D), (a)(2)(E), (b)(2)(B)(i)(III), (b)(2)(E), (d)(2)(B)(i)(III), and (d)(2)(C)(iv), is Title V, § 501 et seq., Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 47-3405 and 47-3406.

Tax revenue anticipation notes authorized. — D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December 14, 1990, and D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1990.

Section 401 of D.C. Law 9-46 provided that "(a) Title I shall not apply during the fiscal year

ending September 30, 1991, if tax revenue anticipation notes are issued pursuant to Title II.

“(b) Title I shall not apply during the fiscal year ending September 30, 1992, if tax revenue anticipation notes are issued pursuant to Title III.

“(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District.”

D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized. — See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

Delegation of authority under D.C. Act 8-246, the “Tax Revenue Anticipation Notes Act of 1990.” — See Mayor’s Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the “General Fund Recovery Act of 1991.” — See Mayor’s Order 91-147, October 4, 1991.

§ 47-3401.1. Short-term advances for seasonal cash-flow management.

(a) *In general.* — If the conditions in subsection (b) of this section are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress, at times of seasonal cash-flow deficiencies.

(b) *Conditions to making any short-term advance.* — The Secretary shall make an advance under this section if:

(1) The Mayor delivers to the Secretary a requisition for an advance under this section;

(2) The date on which the requisitioned advance is to be made is in a control period;

(3) The Authority certifies to the Secretary that:

(A) The District government has prepared and submitted a financial plan and budget for the District government;

(B) There is an approved financial plan and budget in effect under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 for the fiscal year for which the requisition is to be made;

(C) At the time of the Mayor’s requisition for an advance, the District government is in compliance with the financial plan and budget;

(D) Both the receipt of funds from such advance and the reimbursement of the Treasury for such advance are consistent with the financial plan and budget for the year; and

(E) Such advance will not adversely affect the financial stability of the District government;

(4) The Authority certifies to the Secretary, at the time of the Mayor’s requisition for an advance, that the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government’s financing needs;

(5) The Inspector General of the District of Columbia certifies to the Secretary the information described in paragraph (3) of this subsection by

providing the Secretary with a certification conducted by an outside auditor under a contract entered into pursuant to § 1-1182.8(a)(4);

(6) The Secretary receives such additional certifications and opinions relating to the financial position of the District government as the Secretary determines to be appropriate from such other federal agencies and instrumentalities as the Secretary determines to be appropriate; and

(7) The Secretary determines that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated as the annual federal payment to the District of Columbia under Title V of the District of Columbia Self-Government and Governmental Reorganization Act for the fiscal year following the fiscal year in which such advance is made.

(c) *Amount of any short-term advance.* —

(1) *In general.* — Except as provided in paragraph (3) of this subsection, if the conditions in paragraph (2) of this subsection are satisfied, each advance made under this section shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(2) *Conditions applicable to designated.* — Paragraph (1) of this subsection applies if:

(A) The Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in subsection (a) of this section; and

(B) The Authority:

(i) Concurs in the Mayor's determination under subparagraph (A) of this paragraph; and

(ii) Determines that the reimbursement obligation of the District government for an advance made under this section in the amount designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) *Maximum amount outstanding.* —

(A) *In general.* — Notwithstanding paragraph (1) of this subsection, the unpaid principal balance of all advances made under this section in any fiscal year of the District government shall not at any time be greater than 100% of applicable limit.

(B) *Special rule for Fiscal Year 1997.* — The unpaid principal balance of all advances made under this section in Fiscal Year 1997 of the District government shall not at any time be greater than the difference between:

(i) 150% of the applicable limit for such fiscal year; and

(ii) The unpaid principal balance of any advances made under § 47-3401(d).

(C) *Applicable limit defined.* — In this paragraph, the "applicable limit" for a fiscal year is the amount authorized under Title V of the District of Columbia Self-Government and Governmental Reorganization Act for appropriation as the federal payment to the District of Columbia for the fiscal year following the fiscal year in which the advance is made.

(d) *Maturity of any short-term advance.* —

(1) *In general.* — Except as provided in paragraph (3) of this subsection, if the condition in paragraph (2) of this subsection is satisfied, each advance

made under this section shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(2) *Condition applicable to designated maturity.* — Paragraph (1) of this subsection applies if the Authority determines that the reimbursement obligation of the District government for an advance made under this section having the maturity date designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) *Latest permissible maturity date.* — Notwithstanding paragraph (1) of this subsection, the maturity date for any advance made under this section shall not be later than 11 months after the date on which such advance is made.

(e) *Interest rate.* — Each advance made under this section shall bear interest at an annual rate equal to a rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus $\frac{1}{8}$ of 1%.

(f) *10-business-day zero balance requirement.* — After the expiration of the 12-month period beginning on the date on which the first advance is made under this section, the Secretary shall not make any new advance under this section unless the District government has:

(1) Reduced to zero at the same time the principal balance of all advances made under this section at least once during the previous 12-month period; and

(2) Not requisitioned any advance to be made under this section in any of the 10 business days following such reduction.

(g) *Deposit of advances.* — As provided in § 47-392.4(b), advances made under this section for the account of the District government shall be deposited by the Secretary into an escrow account held by the Authority. (July 26, 1939, 53 Stat 1118, ch. 367, title VI, § 602, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.7, 47-392.4, 47-392.5, 47-392.8, 47-392.9, 47-3401, 47-3401.2, and 47-3401.3.

Effect of amendments. — Section 204(c) of Pub. L. 104-8, 109 Stat. 120, added this section.

References in text. — "The District of Columbia Financial Responsibility and Management Assistance Act of 1995," referred to in

(b)(3)(B), is 109 Stat. 97, Pub. L. 104-8, approved April 17, 1995.

"Title V of the District of Columbia Self-Government and Governmental Reorganization Act," referred to in (b)(7) and (c)(3)(C), is Title V, § 501 et seq. of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 47-3405 and 47-3406.

§ 47-3401.2. Security for advances.

(a) *In general.* — The Secretary shall require the District government to provide such security for any advance made under §§ 47-3401 through 47-3401.4, as the Secretary determines to be appropriate.

(b) *Authority to require specific security.* — As security for any advance made under 47-3401 through 47-3401.4, the Secretary may require the District government to:

(1) Pledge to the Secretary specific taxes and revenue of the District government, if such pledging does not cause the District government to violate existing laws or contracts; and

(2) Establish a debt service reserve fund pledged to the Secretary. (July 26, 1939, 53 Stat 1118, ch. 367, title VI, § 603, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.7, 47-392.4, 47-392.5, 47-392.8, 47-392.9, and 47-3401.3.

Effect of amendments. — Section 204(c) of Pub. L. 104-8, 109 Stat. 120, added this section.

§ 47-3401.3. Reimbursement to the Treasury.

(a) *Reimbursement amount.* —

(1) *In general.* — Except as provided in paragraph (2) of this subsection, on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under §§ 47-3401 through 47-3401.4, the District shall pay to the Treasury the amount of such reimbursement payment out of taxes and revenue collected for the support of the District government.

(2) *Exceptions for transitional advances.* —

(A) *Advances made before October 1, 1995.* —

(i) *Financial plan and budget approved.* — If the Authority approves a financial plan for the District government before October 1, 1995, the District government may use the proceeds of any advance made under § 47-3401.1 to discharge its obligation to reimburse the Treasury for any advance made under § 47-3401(a).

(ii) *Financial plan and budget not approved.* — If the Authority has not approved a financial plan and budget for the District government by October 1, 1995, the annual federal payment appropriated to the District government for the fiscal year ending September 30, 1996, shall be withheld and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under § 47-3401(a).

(B) *Advances made on or after October 1, 1995.* —

(i) *Financial plan and budget approved.* — If the Authority approves a financial plan and budget for the District government during fiscal year 1996, the District may use the proceeds of any advance made under § 47-3401.1 to discharge its obligation to reimburse the Treasury for any advance made under § 47-3401(b).

(ii) *Financial plan and budget not approved.* — If the Authority has not approved a financial plan and budget for the District government by October 1, 1996, the annual federal payment appropriated to the District government for the fiscal year ending September 30, 1997, shall be withheld and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under § 47-3401(b).

(b) *Remedies for failure to reimburse.* — If, on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under this subchapter, the District government does not make such reimbursement payment, the Secretary shall take the actions listed in this subsection.

(1) *Withhold annual federal payment.* — Notwithstanding any other law, before turning over to the Authority (on behalf of the District government under § 47-392.5) any annual federal payment appropriated to the District government for any fiscal year under Title V of the District of Columbia Self-Government and Governmental Reorganization Act (if any), the Secretary shall withhold from such annual federal payment, and apply toward reimbursement for the payment not made, an amount equal to the amount needed to fully reimburse the Treasury for the payment not made.

(2) *Withhold other federal payments.* — If, after the Secretary takes the action described in paragraph (1) of this subsection, the Treasury is not fully reimbursed, the Secretary shall withhold from each grant, entitlement, loan, or other payment to the District government by the Federal Government not dedicated to making entitlement or benefit payments to individuals, and apply toward reimbursement for the payment not made, an amount that, when added to the amount withheld from each other such grant, entitlement, loan, or other payment, will be equal to the amount needed to fully reimburse the Treasury for the payment not made.

(3) *Attach available District revenues.* — If, after the Secretary takes the actions described in paragraphs (1) and (2) of this subsection, the Treasury is not fully reimbursed, the Secretary shall attach any and all revenues of the District government which the Secretary may lawfully attach, and apply toward reimbursement for the payment not made, an amount equal to the amount needed to fully reimburse the Treasury for the payment not made.

(4) *Take other actions.* — If, after the Secretary takes the actions described in paragraphs (1) through (3) of this subsection, the Treasury is not fully reimbursed, the Secretary shall take any and all other actions permitted by law to recover from the District government the amount needed to fully reimburse the Treasury for the payment not made. (July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 604, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.7, 47-392.4, 47-392.5, 47-392.8, 47-392.9, and 47-3401.2.

Effect of amendments. — Section 204(c) of Pub. L. 104-8, 109 Stat. 120, added this section.

References in text. — “Title V of the Dis-

trict of Columbia Self-Government and Governmental Reorganization Act,” referred to in (b)(1), is Title V, § 501 et seq., of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 47-3405 and 47-3406.

§ 47-3401.4. Definitions.

For purposes of this subchapter:

(1) The term “Authority” means the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.1(a);

(2) The term “control period” has the meaning given such term under § 47-393(4);

(3) The term “District government” has the meaning given such term under § 47-393(5);

(4) The term “financial plan and budget” has the meaning given such term under § 47-393(6); and

(5) The term “Secretary” means the Secretary of the Treasury. (July 26, 1939, 53 Stat 1118, ch. 367, title VI, § 605, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-391.7, 47-392.4, 47-392.5, 47-392.8, 47-392.9, 47-3401.2, and 47-3401.3.

Effect of amendments. — Section 204(c) of Pub. L. 104-8, 109 Stat. 120, added this section.

References in text. — “Part E of Title IV of the District of Columbia Self-Government and

Governmental Reorganization Act,” referred to in (a)(3) is Part E, §§ 461 to 490, of Title IV, of Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 1-2455, 43-1553, 43-1615, and 47-321 to 47-334.

§ 47-3402. Annual payment by the United States — Appropriations — Generally.

There are authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed \$173,000,000 for the fiscal year ending June 30, 1972, and not to exceed \$178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. Sums appropriated under this section shall be credited to the General Fund of the District of Columbia. (July 16, 1947, 61 Stat. 361, ch. 258, Art. VI, § 1; May 18, 1954, 68 Stat. 113, ch. 218, title VII, § 701; Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title V, § 501; Nov. 3, 1967, 81 Stat. 339, Pub. L. 90-120, title I, § 101; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title I, § 101; Oct. 31, 1969, 83 Stat. 180, Pub. L. 91-106, title VII, § 701; Jan. 5, 1971, 84 Stat. 1930, Pub. L. 91-650, title I, § 101; Dec. 15, 1971, 85 Stat. 654, Pub. L. 92-196, title VI, § 601(a); 1973 Ed., § 47-2501a; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-3403.

Federal payment to the District of Columbia. — Public Law 104-194, 110 Stat. 2356,

the D.C. Appropriations Act, 1997, provided for payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000.

§ 47-3403. Same — Same — Employee pay increases.

(a) In addition to the amount authorized to be appropriated under § 47-3402 for the fiscal year ending June 30, 1972, there is authorized to be appropriated to the District of Columbia for such fiscal year not to exceed \$6,000,000 which may only be used in such fiscal year to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in § 5301(c) of Title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.

(b) In addition to the amount authorized to be appropriated under § 47-3402 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there is authorized to be appropriated to the District of Columbia not to exceed \$12,000,000 for each such fiscal year which may only be used to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in § 5301(c) of Title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey. (Dec. 15, 1971, 85 Stat. 655, Pub. L. 92-196, title VI, § 601(b); 1973 Ed., § 47-2501a-1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cited in Fenster v. Schneider, 636 F.2d 765 (D.C. Cir. 1980).

§ 47-3404. Same — Same — Deficiency.

If in any fiscal year or years a deficiency exists between the amount appropriated and the amount authorized by this article to be appropriated, additional appropriations are hereby authorized for subsequent fiscal years to pay such deficiency or deficiencies. (July 16, 1947, 61 Stat. 361, ch. 258, art. VI, § 2; May 18, 1954, 68 Stat. 113, ch. 218, title VII, § 701; Mar. 31, 1956, 70 Stat. 83, ch. 154, § 401; June 6, 1958, 72 Stat. 183, Pub. L. 85-451, § 2; Aug. 27, 1963, 77 Stat. 130, Pub. L. 88-104, § 1; Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title V, § 501; 1973 Ed., § 47-2501b; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — The reference to “this article” in this section is to art. VI, 61 Stat. 361, ch. 258, approved July 16, 1947.

§ 47-3405. Same — Duties of Mayor and Council; submittal of request to President [Home Rule Act Provision].

(a) It shall be the duty of the Mayor in preparing an annual budget for the government of the District to develop meaningful intercity expenditure and revenue comparisons based on data supplied by the Bureau of the Census, and to identify elements of cost and benefits to the District which result from the unusual role of the District as the Nation’s Capital. The results of the studies conducted by the Mayor under this subsection shall be made available to the Council and to the federal Office of Management and Budget for their use in reviewing and revising the Mayor’s request with respect to the level of the appropriation for the annual federal payment to the District. Such federal payment should operate to encourage efforts on the part of the government of the District to maintain and increase its level of revenues and to seek such efficiencies and economies in the management of its programs as are possible.

(b) The Mayor, in studying and identifying the costs and benefits to the District brought about by its role as the Nation’s Capital, should to the extent feasible, among other elements, consider:

(1) Revenues unobtainable because of the relative lack of taxable commercial and industrial property;

(2) Revenues unobtainable because of the relative lack of taxable business income;

(3) Potential revenues that would be realized if exemptions from District taxes were eliminated;

(4) Net costs, if any, after considering other compensation for tax base deficiencies and direct and indirect taxes paid, of providing services to tax-exempt nonprofit organizations and corporate offices doing business only with the federal government;

(5) Recurring and nonrecurring costs of unreimbursed services to the federal government;

(6) Other expenditure requirements placed on the District by the federal government which are unique to the District;

(7) Benefits of federal grants-in-aid relative to aid given other states and local governments;

(8) Recurring and nonrecurring costs of unreimbursed services rendered the District by the federal government; and

(9) Relative tax burden on District residents compared to that of residents in other jurisdictions in the Washington, District of Columbia, metropolitan area and in other cities of comparable size.

(c) The Mayor shall submit his request, with respect to the amount of an annual federal payment, to the Council. The Council shall by act approve, disapprove, or modify the Mayor's request. After the action of the Council, the Mayor shall, by December 1st of each calendar year, in accordance with the provisions in Chapter 11 of Title 31, United States Code, submit such request to the President for submission to the Congress. Each request regarding an annual federal payment shall be submitted to the President 7 months prior to the beginning of the fiscal year for which such request is made and shall include a request for an annual federal payment for the next following fiscal year. (1973 Ed., § 47-2501c; Dec. 24, 1973, 87 Stat. 812, Pub. L. 93-198, title V, § 501; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to duties of Mayor, see § 1-242.

As to submission of annual budget, see § 47-301.

As to financial duties of Mayor, see § 47-310.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Definitions applicable. — The definitions in § 1-202 apply to this section.

Cited in *Hessey v. District of Columbia Bd. of Elections & Ethics*, App. D.C., 601 A.2d 3 (1991); *District of Columbia v. American Fed'n of Gov't Employees*, App. D.C., 619 A.2d 77 (1993), cert. denied, 510 U.S. 933, 114 S. Ct. 347, 126 L. Ed. 2d 312 (1993).

§ 47-3406. Same — Appropriation authorization [Home Rule Act Provision].

(a) Notwithstanding any other provision of law, there is authorized to be appropriated as the annual federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of \$230,000,000; for the fiscal year

ending June 30, 1976, the sum of \$254,000,000; for the fiscal year ending September 30, 1977, the sum of \$280,000,000; for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, the sum of \$300,000,000; for the fiscal year ending September 30, 1982, the sum of \$336,600,000; for the fiscal year ending September 30, 1983, the sum of \$361,000,000; for the fiscal year ending September 30, 1984, the sum of \$386,000,000; for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, the sum of \$474,500,000; for each of the fiscal years ending September 30, 1989, and September 30, 1990, the sum of \$494,500,000; for the fiscal year ending September 30, 1991, the sum of \$596,500,000; and for the fiscal year ending September 30, 1992, the sum of \$630,000,000.

(b)(1) Except as otherwise provided by paragraph (2) of this subsection, there are authorized to be appropriated, in addition to the amounts authorized to be appropriated under subsection (a) of this section, \$25,000,000 for fiscal year 1986, \$35,000,000 for fiscal year 1987, \$30,000,000 for fiscal year 1988, \$20,000,000 for fiscal year 1989, \$15,000,000 for fiscal year 1990, and \$10,000,000 for fiscal year 1991 to the District of Columbia for establishing and maintaining a comprehensive mental health system.

(2) For each of the fiscal years 1986 through 1990 there is authorized to be appropriated, in addition to the amount authorized under paragraph (1) of this subsection, an amount equal to one-third of the amount authorized under paragraph (1) of this subsection for the succeeding fiscal year. The amount authorized to be appropriated under paragraph (1) of this subsection for any such succeeding fiscal year shall be reduced by the amount appropriated for the preceding fiscal year under the first sentence of this paragraph.

(c)(1) In addition to the amounts authorized to be appropriated under subsection (a) of this section and subject to paragraphs (2) and (3) of this subsection, there are authorized to be appropriated to the District of Columbia, for salaries and expenses (including benefits) of 700 additional officers and members of the Metropolitan Police Department of the District of Columbia, \$23,149,000 for fiscal year 1990, \$23,338,000 for fiscal year 1991, \$25,199,000 for fiscal year 1992, \$27,252,000 for fiscal year 1993, and \$28,367,000 for fiscal year 1994.

(2) Amounts appropriated under paragraph (1) of this subsection shall be available only for salaries and expenses (including benefits) of officers and members of the Metropolitan Police Department of the District of Columbia in excess of 4,355 officers and members (and supplies, equipment, and protective vests for reserve officers of the Metropolitan Police Department).

(3)(A) For Fiscal Year 1990, no funds authorized to be appropriated under paragraph (1) of this subsection may be obligated or expended until 120 days after the Mayor develops and submits a plan for the implementation in the District of Columbia of a community-oriented policing system (modeled after, though not limited to, such a system in Houston, Texas) to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate.

(B) For fiscal years after 1990, no funds authorized to be appropriated under paragraph (1) of this subsection may be obligated or expended until the Mayor submits a notification to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate that the District of Columbia has implemented for such fiscal year a community-oriented policing system in the District of Columbia. (1973 Ed., § 47-2501d; Dec. 24, 1973, 87 Stat. 813, Pub. L. 93-198, title V, § 502; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(7); Aug. 6, 1981, 95 Stat. 150, Pub. L. 97-30; Oct. 15, 1982, 96 Stat. 1626, Pub. L. 97-334; Aug. 2, 1983, 97 Stat. 367, Pub. L. 98-65; June 12, 1984, 98 Stat. 242, Pub. L. 98-316; Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 9(c)(2); Dec. 12, 1989, 103 Stat. 1901, Pub. L. 101-223, § 2(a); Aug. 17, 1991, 105 Stat. 495, Pub. L. 102-102, § 2(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-131 and 47-331.2.

Severability of Public Law 93-198. — As to severability of Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act, see § 762 of the act, set forth in Volume 1.

Federal payment to the District of Columbia. — Public Law 104-194, 110 Stat. 2356, the D.C. Appropriations Act, 1997, provided for payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000.

Public Law 104-194, 110 Stat. 2360, the District of Columbia Appropriations Act, 1997, provided for human support services, \$1,685,707,000 and 6,344 full-time equivalent positions (including \$961,399,000 and 3,814 full-time equivalent positions from local funds, \$676,665,000 and 2,444 full-time equivalent positions from Federal funds, and \$47,643,000 and 86 full-time equivalent positions from other funds): *Provided*, That \$24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation; *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private non-profit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

Public Law 103-127, 106 Stat. 1341, the District of Columbia Appropriations Act, 1994,

provided \$38,337,000 for the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990.

Federal payment not subject to apportionment. — Section 132 of § 1(c) of Pub. L. 100-202, the D.C. Appropriations Act, 1988, provided that beginning with the fiscal year 1988, amounts appropriated for any fiscal year as the Federal payment to the District of Columbia under § 47-3406, shall not be subject to apportionment and shall be paid by the Secretary of the Treasury to the District of Columbia no later than 15 days after the beginning of the fiscal year for which they are appropriated (or no later than 15 days after the date of the enactment of the appropriating Act, if later).

Appropriations not subject to apportionment. — Section 135 of § 1(c) of Pub. L. 100-202, the D.C. Appropriations Act, 1988, provided that Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.

Repayment of loans and interest. — Public Law 104-194, 110 Stat. 2360, the District of Columbia Appropriations Act, 1997, provided for reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451, D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Co-

lumbia to plan, construct, operate and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C.

Code, section 47-321, note; 91 Stat. 1156, Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$333,710,000 from local funds.

Delegation of authority pursuant to Public Law 101-223, for the Pilot Police Corps Program. — See Mayor's Order 90-131, October 5, 1990.

§ 47-3406.1. Federal payment formula.

(a) There is authorized to be appropriated as the annual federal payment to the District of Columbia an amount equal to 24% of the following local revenues:

(1) For the federal payment for fiscal year 1993, the local revenues for fiscal year 1991;

(2) For the federal payment for fiscal year 1994, the local revenues for fiscal year 1992; and

(3) For the federal payment for fiscal year 1995, the local revenues for fiscal year 1993.

(b) For purposes of subsection (a) of this section, the term "local revenues" means, with respect to a fiscal year, the independently audited revenues of the District of Columbia that are derived from sources other than the federal government during that year, as reviewed by the Comptroller General under § 715(e) of Title 31, United States Code.

(c) There is authorized to be appropriated as the annual federal payment to the District of Columbia for each of the fiscal years 1996, 1997, 1998, and 1999 the sum of \$660,000,000. (Aug. 17, 1991, 105 Stat. 495, Pub. L. 102-102, § 2(b); Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 2; Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(e); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Effect of amendments. — Section 301(e) of Pub. L. 104-8, 109 Stat. 142, substituted "each of the fiscal years 1996, 1997, 1998, and 1999" for "fiscal year 1996" in (c).

§ 47-3407. Regulations.

The Council of the District of Columbia is authorized to make such rules and regulations as may be necessary to carry out the provisions of the District of Columbia Revenue Act of 1937, as amended and shall prescribe and publish all needful rules and regulations for the enforcement of the Revenue Act of 1939. (Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 3; May 16, 1938, 52 Stat. 370, ch. 223, § 7; July 26, 1939, 53 Stat. 1119, ch. 367, title VIII, § 2; 1973 Ed., § 47-2502; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — The District of Columbia Revenue Act of 1937, referred to in this section, is 50 Stat. 673, approved August 17, 1937.

The Revenue Act of 1939, referred to in this section, is 50 Stat. 1087, approved July 26, 1939.

§ 47-3408. Severability.

If any provision of the District of Columbia Revenue Act of 1937 and the Revenue Act of 1939, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 4; May 16, 1938, 52 Stat. 370, ch. 223, § 7; July 26, 1939, 53 Stat. 1119, ch. 367, title VIII, § 1; 1973 Ed., § 47-2503; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — The District of Columbia Revenue Act of 1937, referred to in this section, is 50 Stat. 673, approved August 17, 1937.

The Revenue Act of 1939, referred to in this section, is 53 Stat. 1087, approved July 26, 1939.

§ 47-3409. Divulging information obtained from Internal Revenue Service prohibited; penalties.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Mayor or any person having an administrative duty under this chapter to divulge or make known in any manner any information obtained from the Internal Revenue Service in accordance with any provisions of the District of Columbia Revenue Act of 1937, as amended. Any violation of the provisions of this section shall subject the offender to a fine of \$300 or imprisonment for 90 days. (Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 5; May 16, 1938, 52 Stat. 370, ch. 223, § 7; 1973 Ed., § 47-2504; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

References in text. — The District of Columbia Revenue Act of 1937, referred to in this

section, is 50 Stat. 673, approved August 17, 1937.

§ 47-3410. Effect of District of Columbia Tax Enforcement Act of 1982.

(a) If any provision of the District of Columbia Tax Enforcement Act of 1982, including any amendment made by the District of Columbia Tax Enforcement Act of 1982, or the application thereof to any person or circumstance, is held invalid, the remainder of the District of Columbia Tax Enforcement Act of 1982, including the remaining amendments, and the application of such provisions to other persons or circumstances shall not be affected thereby.

(b) The repeal or amendment by the District of Columbia Tax Enforcement Act of 1982 of any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before July 24, 1982, or any suit or proceeding had or commenced before July 24, 1982, but all such rights and liabilities under such acts shall continue and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to July 24, 1982, under any provisions of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if the District of

Columbia Tax Enforcement Act of 1982 had not been enacted. (July 24, 1982, D.C. Law 4-131, § 502, 29 DCR 2415; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 4-131. — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respec-

tively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

References in text. — The “District of Columbia Tax Enforcement Act of 1982,” referred to throughout this section, is D.C. Law 4-131.

CHAPTER 35. LOWER INCOME HOMEOWNERSHIP TAX ABATEMENT AND INCENTIVES.

Sec.

47-3501. Findings.

47-3502. Lower income homeownership households — Qualifications.

47-3503. Exemptions for qualifying lower income homeownership households and cooperative housing associations.

47-3504. Same — Administration and enforcement.

47-3505. Nonprofit housing organizations — Qualifications; exemptions.

Sec.

47-3506. Administration and enforcement — Qualifying nonprofit housing organizations and cooperative housing associations.

47-3506.1. Resident management corporations — Qualifications; exemptions.

47-3507. Certification of program providing low income rental housing.

§ 47-3501. Findings.

The Council of the District of Columbia finds that:

(1) Homeownership can be afforded by very few lower income families in the District of Columbia.

(2) Homeownership stabilizes families and, in turn, stabilizes neighborhoods, contributing to improved housing conditions and safer, better quality neighborhoods.

(3) The District of Columbia government budgets for the fiscal years ending September 30, 1983, and September 30, 1984, do not have funds available for significant new homeownership initiatives.

(4) Homeownership for lower income families can be achieved, on a limited basis, through the work of nonprofit housing organizations and through private investments in shared equity arrangements which are encouraged by existing federal and District of Columbia income tax laws.

(5) Additional support for nonprofit housing organizations, and private investors in shared equity arrangements, through property tax abatements and other incentives can serve to expand homeownership for lower income families at little or no additional cost to the District of Columbia.

(6) Expansion of homeownership opportunities for lower income families is beneficial to the public peace, health, safety and general welfare.

(7) The purpose of this act is to expand homeownership opportunities for lower income families to the maximum extent possible at the lowest possible direct cost to the District of Columbia. (Oct. 8, 1983, D.C. Law 5-31, § 2, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-31. — Law 5-31, the “Lower Income Homeownership Tax Abatement and Incentives Act of 1983,” was introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1983 and

July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

References in text. — “Act,” referred to in paragraph (7), means D.C. Law 5-31.

§ 47-3502. Lower income homeownership households — Qualifications.

(a) In order to qualify as a lower income homeownership household in the District of Columbia, a lower income household must meet the following conditions:

(1) The income of the household shall not be in excess of 120% of the lower income guidelines established pursuant to 42 U.S.C. § 1437f, for the Washington Standard Metropolitan Statistical Area (SMSA), as the median is determined by the United States Department of Housing and Urban Development and adjusted yearly by historic trends of that median, and as further may be adjusted by an interim census of District of Columbia incomes by local or regional government agencies; and

(2) The household shall occupy the unit and shall either:

(A) Become an owner in fee simple; or

(B) Receive, pursuant to a shared equity financing agreement which complies with the requirements of 26 U.S.C. § 280A(d)(3), at least a 5% qualified ownership interest, the right to occupy the unit, and an option to purchase the remaining ownership interest at a specified later date.

(b) Notwithstanding the requirements of subsection (a) of this section, a household may qualify as a lower income household in the District of Columbia if it meets each of the following requirements:

(1) The household occupies a residential property including a single-family home, condominium, or cooperative, located in an economic development zone approved pursuant to § 5-1401;

(2) The property is the principal place of residence of its owner;

(3) The property is owned in fee simple, or the equivalent with respect to occupancy rights in a cooperative, by a first time home buyer; and

(4) The household income does not exceed 110% of the area median income guidelines established pursuant to § 45-2204. (Oct. 8, 1983, D.C. Law 5-31, § 3, 30 DCR 3879; Oct. 20, 1988, D.C. Law 7-177, § 11, 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-802, 47-3503, 47-3504, and 47-3505.

Legislative history of Law 5-31. — See note to § 47-3501.

Legislative history of Law 7-177. — Law 7-177, the "Economic Development Zone Incentives Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-208, which was referred to the Committee on Finance and

Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on August 2, 1988, it was assigned Act No. 7-237 and transmitted to both Houses of Congress for its review.

Mayor authorized to issue rules. — Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

§ 47-3503. Exemptions for qualifying lower income homeownership households and cooperative housing associations.

(a)(1) Deeds to property transferred to a qualifying lower income homeownership household shall be exempt from the deed recordation tax pursuant to § 45-922, if it meets the requirements of § 47-3502.

(2) Deeds to property transferred to a cooperative housing association, as that term is defined in § 47-803(2), shall be exempt from the deed recordation tax pursuant to § 45-922, if the cooperative housing association qualifies for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association's intent to qualify for the real property tax exemption pursuant to subsection (c) of this section within 1 year, accompanies the deed at the time of its offer for recordation.

(3) Recordation of a construction loan deed of trust or mortgage, as that term is defined in § 45-921(9), or a permanent loan deed of trust or mortgage, as that term is defined in § 45-921(10), shall be exempt from the deed recordation tax pursuant to § 45-922, if the property securing the deed of trust or mortgage is owned by or is being simultaneously transferred to a qualifying lower income homeownership household or a cooperative housing association qualified for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association's intent to qualify for the real property tax exemption pursuant to subsection (c) of this section, within 1 year, accompanies the deed at the time of its offer for recordation.

(b)(1) Transfers of property to a qualifying lower income homeownership household shall be exempt from the transfer tax pursuant to § 47-902, if:

(A) The household meets the requirements of § 47-3502; and

(B) The purchaser in fee simple or the persons acquiring qualified ownership interests under a shared equity financing agreement receive a credit against the purchase price of the property in an amount equal to the total tax which would have been due without regard to this section.

(2) Transfers of property to a cooperative housing association, as that term is defined in § 47-803(2), shall be exempt from the transfer tax pursuant to § 47-902, if:

(A) The cooperative housing association qualifies for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association's intent to qualify for the real property tax exemption pursuant to subsection (c) of this section, within 1 year, accompanies the deed at the time of its offer for recordation; and

(B) The purchaser receives a credit against the purchase price of the property in an amount equal to the total tax that would have been due without regard to this paragraph.

(c)(1) For purposes of this subsection, the term "cooperative housing association" has the same meaning given the term in § 47-803(2).

(2) Property transferred to a qualifying lower income homeownership household shall be exempt from real property tax pursuant to § 47-1002, if:

(A) The household meets the requirements of § 47-3502; and

(B) In the case of a qualifying lower income homeownership household under § 47-3502(2)(B), the household receives a credit against rent equal to that percentage of the real property tax that would have been due on the property without regard to this section which bears the same relation to the total real property tax that would have been due on the property without regard to this section as 100% minus the percentage of the household's qualified ownership interest bears to 100%.

(3) The exemption provided by this subsection shall apply to property owned by a cooperative housing association if at least 50% of the dwelling units contained therein are occupied by households which meet the income limitations and conditions of transfer described in § 47-3502 and the credit against rent requirement described in paragraph (2)(B) of this subsection.

(4) The exemption provided by this subsection shall be in effect only until the end of the fifth tax year following the year in which the property was transferred to the household and only so long as the same household is an owner and occupant of the property or in the case of a cooperative housing association, only so long as at least 50% of the dwelling units contained therein are occupied by households which meet the income limitations and conditions of transfer described in § 47-3502 and the credit against rent requirement described in paragraph (2)(B) of this subsection. (Oct. 8, 1983, D.C. Law 5-31, § 4, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(a), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to additional definitions applicable to real property assessment and tax, see § 47-803.

Section references. — This section is referred to in §§ 45-922, 47-902, 47-1002, 47-3504, 47-3505 and 47-3506.

Legislative history of Law 5-31. — See note to § 47-3501.

Legislative history of Law 7-205. — Law 7-205, the "Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1988," was introduced in Council and assigned Bill No. 7-548, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-276 and transmitted to both Houses of Congress for its review.

Exemptions granted to Sursum Corda Cooperative Association, Inc. — D.C. Law 9-20, effective August 17, 1991, temporarily

clarified that the Sursum Corda Cooperative Association, Inc., qualifies as a cooperative housing association for the exemption from deed recordation, transfer, and real property taxes, and provided the Sursum Corda Cooperative Association, Inc., with equitable relief from water and sewer service charges. Section 4(b) of D.C. Law 9-20 provided that the act shall expire on the 225th day of its having taken effect or upon the date of the Sursum Corda Cooperative Association, Inc. Act of 1991, whichever occurs first.

D.C. Law 9-60, effective Mar. 7, 1992, the Sursum Corda Cooperative Association, Inc., Clarification Act of 1991, clarified that the Sursum Corda Cooperative Association, Inc., qualifies as a cooperative housing association for the exemption from deed recordation, transfer, and real property taxes, and provided the Sursum Corda Cooperative Association, Inc., with equitable relief from water and sewer service charges.

§ 47-3504. Same — Administration and enforcement.

(a) The Mayor shall assume that a shared equity financing agreement meets the requirements of §§ 47-3502 and 47-3503 if the persons acquiring qualified ownership interests in the property pursuant to the shared equity financing agreement certify that the agreement is intended to do so. The Mayor may

verify the contents of the certification and the shared equity financing agreement.

(b) If within 3 years of the filing of the certification under subsection (a) of this section the Mayor determines that the shared equity financing agreement does not meet the requirements of §§ 47-3502 and 47-3503, the Mayor shall disallow the exemptions granted under § 47-3503.

(c) If the noncompliance with any requirement of § 47-3502 or § 47-3503 is cured within 90 days of the receipt of a notice of noncompliance from the Mayor, the exemptions shall not be disallowed.

(d) For exemptions granted under § 47-3503(a) or (b), or both, and disallowed under subsection (b) of this section, there shall be due to the Mayor the total tax which would have been due without the exemptions, plus a penalty equal to 10% of the tax. For exemptions granted under § 47-3503(c) and disallowed under subsection (b) of this section, the property shall be reclassified in accordance with the provisions of § 47-813, and shall be taxed at the appropriate rate of taxation for that class, plus a penalty equal to 10% of the tax.

(e) In regard to a shared equity financing agreement's compliance with the requirements of 26 U.S.C. § 280A(d)(3), for the purposes of this section and § 47-802(5), the Mayor shall assume that the compliance exists unless a contrary ruling or determination has been made by the Internal Revenue Service or other competent federal authority.

(f) If any person, organization, association, corporation, or other entity shall willfully make a false statement concerning any information required to be supplied on the certification under subsection (a) of this section, the person, organization, association, corporation, or other entity shall be deemed guilty of the offense of making false statements and, upon conviction thereof, shall be subject to the penalties for that offense provided for by § 22-2514(b). (Oct. 8, 1983, D.C. Law 5-31, § 5, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to false statements, see § 22-2514.

As to classes of property subject to real property assessment and tax, see § 47-813.

Legislative history of Law 5-31. — See note to § 47-3501.

§ 47-3505. Nonprofit housing organizations — Qualifications; exemptions.

(a) In order to qualify for an exemption under this section, a nonprofit housing organization shall have been approved by the Internal Revenue Service as exempt from federal income tax under 26 U.S.C. § 501(c)(3) or (4).

(b) Transfers of property to a qualifying nonprofit housing organization shall be exempt from the transfer tax pursuant to § 47-902, if:

(1) A return under oath, certifying the organization's intent to transfer the property, within 1 year, to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer described in § 47-3502 or to a cooperative housing

association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation; and

(2) The purchaser receives a credit against the purchase price of the property in an amount equal to the total tax that would have been due without regard to this subsection.

(c)(1) Deeds of property transferred to a qualifying nonprofit housing organization shall be exempt from the deed recordation tax pursuant to § 45-922, if a return under oath, certifying the organization's intent to transfer the property within 1 year to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer described in § 47-3502 or to a cooperative housing association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation.

(2) Recordation of a construction loan deed of trust or mortgage, as that term is defined in § 45-921(9), or a permanent loan deed of trust or mortgage, as that term is defined in § 45-921(10), shall be exempt from the deed recordation tax pursuant to § 45-922, if the property securing the deed of trust or mortgage is owned by or is being simultaneously transferred to a qualifying nonprofit housing organization.

(d) Property transferred to a qualifying nonprofit housing organization shall be exempt from the real property tax pursuant to § 47-1002, through the end of the first tax year following the year in which the property was transferred to the organization if a return under oath, certifying the organization's intent to transfer the property within 1 year to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer in § 47-3502 or to a cooperative housing association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation.

(e) A qualifying nonprofit housing organization shall be exempt from the provisions of Chapter 19 of Title 45. (Oct. 8, 1983, D.C. Law 5-31, § 6, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(b), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 45-1931, 47-902, 47-1002, and 47-3506.

Legislative history of Law 7-205. — See note to § 47-3503.

Legislative history of Law 5-31. — See note to § 47-3501.

§ 47-3506. Administration and enforcement — Qualifying nonprofit housing organizations and cooperative housing associations.

(a)(1) If a qualifying nonprofit housing organization fails to transfer the property within 1 year as required by § 47-3505, the Mayor shall disallow the exemptions provided by § 47-3505 and the organization shall pay to the Mayor:

(A) The total tax which would have been due without the exemption;

(B) Interest at the rate of 1¼% per month, or fraction of a month, from the date prescribed for the payment of the tax without regard to the exemptions until the date paid; and

(C) A penalty equal to 10% of the tax. The Mayor may, for good cause shown, extend the time for transfer of the property for an additional period not to exceed 90 days, if the cooperative housing association files a request for extension, in writing, with the Mayor within 30 days after the expiration of the 1-year period.

(2) If a cooperative housing association fails to qualify for the real property tax exemption within 1 year as required by § 47-3503, the Mayor shall disallow the exemption provided by § 47-3503 and the association shall pay to the Mayor:

(A) The total tax which would have been due without the exemptions;

(B) Interest at the rate of 1¼% per month, or fraction of a month, from the date prescribed for the payment of the tax without regard to the exemptions until the date paid; and

(C) A penalty equal to 10% of the tax. The Mayor may, for good cause shown, extend the time for transfer of the property for an additional period not to exceed 90 days, if the cooperative housing association files a request for extension, in writing, with the Mayor within 30 days after the expiration of the 1-year period.

(b) If an association or organization shall willfully make a false statement concerning any information required to be supplied on the certification under § 47-3503 or § 47-3505, the association or organization shall be deemed guilty of the offense of making false statements and, upon conviction, shall be subject to the penalty for that offense provided in § 22-2514(b). (Oct. 8, 1983, D.C. Law 5-31, § 7, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(c), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Cross references. — As to false statements, see § 22-2514.

Legislative history of Law 7-205. — See note to § 47-3503.

Legislative history of Law 5-31. — See note to § 47-3501.

§ 47-3506.1. Resident management corporations — Qualifications; exemptions.

(a) In order to qualify for an exemption under this section, a resident management corporation shall meet the requirements of section 20 of the United States Housing Act of 1937 (42 U.S.C. § 1437r).

(b) Real property transferred to a qualifying resident management corporation pursuant, to section 21 of the United States Housing Act of 1937 (42 U.S.C. § 1437s), shall be exempt from:

(1) The deed recordation tax pursuant to § 45-922;

(2) The transfer tax pursuant to § 47-902; and

(3) The real property tax pursuant to § 47-1002, through the end of the 10th tax year following the year in which the property is transferred to the resident management corporation.

(c) This section shall apply to real property transferred to all qualifying resident management corporations on, before, or after June 11, 1992. Any taxes owed by a qualifying resident management corporation prior to the enactment of the Public Housing Homeownership Tax Abatement Amendment Act of 1992, which are exempted by the Public Housing Homeownership Tax Abatement Amendment Act of 1992, shall be forgiven. Any taxes paid by a qualifying resident management corporation prior to the enactment of the Public Housing Homeownership Tax Abatement Amendment Act of 1992, which are exempted by the Public Housing Homeownership Tax Abatement Amendment Act of 1992, shall be refunded. (Oct. 8, 1983, D.C. Law 5-31, § 7a, as added June 11, 1992, D.C. Law 9-120, § 2, 39 DCR 3195; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 45-922, 47-902, and 47-1002.

Legislative history of Law 9-120. — Law 9-120, the “Public Housing Homeownership Tax Abatement Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-356, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-194 and transmitted to both Houses of Congress for

its review. D.C. Law 9-120 became effective on June 11, 1992.

References in text. — The “Public Housing Homeownership Tax Abatement Amendment Act of 1992,” referred to in four places in (c), is D.C. Law 9-120, codified as §§ 43-1522.5, 43-1605.5, 45-922, 47-902, 47-1002 and this section.

Mayor authorized to issue rules. — Section 5 of D.C. Law 9-120 provided that the Mayor may issue rules to implement the provisions of the act.

§ 47-3507. Certification of program providing low income rental housing.

For the purposes of qualifying for the depreciation deduction provided by 26 U.S.C. § 167(k)(2)(B), an investor in a shared equity financing agreement, which qualifies for the benefits provided by the Lower Income Homeownership Tax Abatement and Incentives Act of 1983, and who meets the other requirements of 26 U.S.C. § 167(k)(2)(B), shall be deemed to have conducted rehabilitation pursuant to a program certified by the District of Columbia government if the investor certifies to the Mayor the amount of the rehabilitation expenditures. (Oct. 8, 1983, D.C. Law 5-31, § 8, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1803.3.

Legislative history of Law 5-31. — See note to § 47-3501.

References in text. — The “Lower Income Homeownership Tax Abatement and Incentives Act of 1983,” referred to in this section, is D.C. Law 5-31.

Mayor authorized to issue rules. — Section 9 of D.C. Law 5-31 provided that the Mayor shall issue rules necessary to carry out the provisions of §§ 47-3502 to 47-3507.

Delegation of authority under Law 5-31. — See Mayor’s Order 83-270, November 16, 1983.

CHAPTER 36. EMPLOYEE DEFERRED COMPENSATION PROGRAM.

Sec.

47-3601. Authorized; treatment of benefits; employee eligibility; exclusion from certain review and collective bargaining provisions.

Sec.

47-3602. Regulations.
47-3603. Contracts for services.
47-3604. Annual report.

§ 47-3601. Authorized; treatment of benefits; employee eligibility; exclusion from certain review and collective bargaining provisions.

(a)(1) There shall be established an employee deferred compensation program which meets the requirements of this section and § 457 of the Internal Revenue Code of 1954 and the regulations and interpretations thereunder.

(2) The employee deferred compensation program shall be in addition to any other retirement, pension, or benefit system established by law, and no deferral of income under the employee deferred compensation program shall effect a reduction of the amount of any other retirement, pension or other benefit provided by law. Any amount deferred under the employee deferred compensation program shall be included in the employee's compensation for purposes of computing contributions to existing life insurance, retirement systems, F.I.C.A. or any other system keyed to the employee's scheduled rate of pay, but shall not be included for the purposes of computing federal or District income tax withholdings on behalf of any such employee.

(3) Any amount of compensation deferred under the employee deferred compensation program and any income attributable to the amount so deferred, shall be includible in the employee's District gross income pursuant to Chapter 18 of this title only for the taxable years in which such compensation or other income is paid or otherwise made available to the employee or other beneficiary, and shall be subject to District income tax withholding for such year pursuant to Chapter 18 of this title.

(b) Members of boards and commissions whose pay is set under § 1-612.8 shall not be eligible to participate in the employee deferred compensation program.

(c) The Mayor may enter into an agreement with any personnel authority or independent agency for the purpose of extending to the employees of such personnel authority or independent agency eligibility to participate in the employee deferred compensation program.

(d) The provisions of this section are not subject to review by the Office of Employee Appeals under subchapter VI of Chapter 6 of Title 1, nor are they subject to the provisions of subchapter XVIII of Chapter 6 of Title 1, concerning collective bargaining. (Sept. 26, 1984, D.C. Law 5-118, § 2, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-341 and 47-1803.2.

Legislative history of Law 5-118. — Law 5-118, the "Deferred Compensation Act of 1984," was introduced in Council and assigned

Bill No. 5-177, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned

Act No. 5-170 and transmitted to both Houses of Congress for its review.

References in text. — Section 457 of the Internal Revenue Code of 1954, referred to in paragraph (1) of subsection (a) of this section, is classified to 26 U.S.C. § 457.

Delegation of authority under D.C. Law 5-118. — See Mayor's Order 85-64, May 20, 1985.

§ 47-3602. Regulations.

The Mayor shall promulgate regulations which enable employees to participate in a voluntary tax-sheltered income deferment program which meets the requirements of § 457 of the Internal Revenue Code of 1954, and the regulations and interpretations thereunder. The regulations shall include, but not be limited to:

(1) Provision for the receipt of the compensation deferred and for the use of such funds in accordance with any investment election permitted employees participating in the employee deferred compensation program;

(2) Provision for a contract agreement between the Mayor and any employee who desires to defer compensation under the employee deferred compensation program; and

(3) Provision for and limitations on the types of instruments, securities, accounts or other items in which compensation deferred under the employee deferred compensation program may be invested. (Sept. 26, 1984, D.C. Law 5-118, § 3, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-118. — See note to § 47-3601.

References in text. — Section 457 of the Internal Revenue Code of 1954, referred to in the first sentence of the introductory language of the section, is classified to 26 U.S.C. § 457.

District of Columbia Deferred Compensation Committee Established. — See Mayor's Order 85-135, August 2, 1985.

§ 47-3603. Contracts for services.

(a) The Mayor may select 1 or more contractors to provide such services as may be part of the employee deferred compensation program.

(b) The cost of any contract for provision of such services as may part of the employee deferred compensation program shall be financed solely from employee contributions to the employee deferred compensation program or from a fund or funds established to administer the employee deferred compensation program. (Sept. 26, 1984, D.C. Law 5-118, § 4, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-118. — See note to § 47-3601.

Editor's notes. — Subsection (b) is set forth

above as enacted. The word "be" should probably follow "may" in this provision.

§ 47-3604. Annual report.

The Mayor shall, before February 2nd each year, submit to the Council an annual report which details the activities, and operation of the employee

deferred compensation program for the preceding fiscal year. (Sept. 26, 1984, D.C. Law 5-118, § 5, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 5-118. — See note to § 47-3601.

CHAPTER 37. INHERITANCE AND ESTATE TAXES.

Sec.

- 47-3701. Definitions.
 47-3702. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.
 47-3703. Tax on transfer of taxable estate of nonresidents; property of nonresident defined.
 47-3704. Authority for Mayor to compromise tax.
 47-3705. Filing returns; payment of tax due.
 47-3706. Jeopardy assessments.
 47-3707. Authority for Mayor to file.
 47-3708. Amended returns.
 47-3709. Testimony; production of books and records.
 47-3710. Certification of payment by Mayor.

Sec.

- 47-3711. Lien for taxes.
 47-3712. Liability of personal representative.
 47-3713. Duty of personal representative.
 47-3714. Apportionment required.
 47-3715. Monthly report of Register of Wills.
 47-3716. Final account.
 47-3717. Authority of Mayor to determine tax; deficiencies in tax.
 47-3718. Penalties.
 47-3719. Secrecy of returns.
 47-3720. Rules.
 47-3721. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code of 1954.
 47-3722. Effect of repealers.
 47-3723. Applicability.

§ 47-3701. Definitions.

For the purpose of this chapter, the term:

- (1) "Council" means the Council of the District of Columbia.
- (2) "Decedent" means a deceased person who died on or after April 1, 1987.
- (3) "District" means the District of Columbia.
- (4) "Federal credit" means the maximum amount of credit for state death taxes allowable by § 2011 of the United States Internal Revenue Code of 1954 in respect to a decedent's taxable estate. As used in this paragraph, the maximum amount shall be construed so as to take full advantage of the tax credit as the laws of the United States may allow. In no event, however, shall the amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code of 1954 as it existed on January 1, 1986.
- (5) "Gross estate" means gross estate as defined in § 2031 of the Internal Revenue Code of 1954.
- (6) "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954 (26 U.S.C. § 101 et seq.), in effect for federal estate tax purposes on January 1, 1986.
- (7) "Mayor" means the Mayor of the District of Columbia.
- (8) "Nonresident" means a decedent who was domiciled outside the District at his death.
- (9) "Personal representative" means the personal representative or other person appointed by the court to administer the property of the decedent. If there is no personal representative or other person appointed, qualified, and acting within the District, then any person in actual or constructive possession of any property having a situs in the District that is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the District estate tax due with respect to the property.
- (10) "Resident" means a decedent who was domiciled in the District at his or her death.

(11) "State" means any state, territory, or possession of the United States and the District.

(12) "Taxable estate" means taxable estate as defined in § 2051 of the Internal Revenue Code of 1954.

(13) "Value" means value as finally determined for federal estate tax purposes under the Internal Revenue Code of 1954. (Feb. 24, 1987, D.C. Law 6-168, § 2, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(a), 34 DCR 689; June 24, 1987, D.C. Law 7-9, § 3, 34 DCR 3283; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — Law 6-168, the "Inheritance and Estate Tax Revision Act of 1986," was introduced in Council and assigned Bill No. 6-372, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 27, 1986, it was assigned Act No. 6-217 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-209. — Law 6-209, the "Tax Amnesty Act of 1986," was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned

Act No. 6-269 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-9. — Law 7-9, the "D.C. Income and Franchise Tax Conformity and Inheritance and Estate Tax Revision Act of 1986 Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-129, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 31, 1987 and April 14, 1987, respectively. Signed by the Mayor on May 6, 1987, it was assigned Act No. 7-20 and transmitted to both Houses of Congress for its review.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-3702. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.

(a) A tax in the amount of the federal credit is imposed on the transfer of the taxable estate having its taxable situs in the District of every resident dying on or after April 1, 1987, subject, where applicable, to the credit provided for in subsection (b) of this section.

(b) If any real or tangible personal property of a resident is located outside the District and subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the Internal Revenue Code of 1954, the amount of tax due under this section shall be credited with the lesser of:

(1) The amount of the death tax paid the other state and that qualifies for credit against the federal estate tax; or

(2) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which another state or states have jurisdiction to the same extent that the District would exert jurisdiction under this chapter with respect to the residents of the other state or states and the denominator of which is the value of the decedent's gross estate.

(c) For the purposes of this section, taxable situs means in regard to:

(1) Real property — the place where the property is situated;

(2) Tangible personal property — the place where the property is customarily located at the time of the decedent's death; and

(3) Intangible personal property — the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner. (Feb. 24, 1987, D.C. Law 6-168, § 3, 33 DCR 7008; June 24, 1987, D.C. Law 7-9, § 3, 34 DCR 3283; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Legislative history of Law 7-3. — Law 7-3, the "Inheritance and Estate Tax Revision Act of 1986 Amendment Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-152. The Bill was adopted on first and second

readings on March 3, 1987 and March 17, 1987, respectively. Signed by the Mayor on March 25, 1987, it was assigned Act No. 7-12 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-9. — See note to § 47-3701.

§ 47-3703. Tax on transfer of taxable estate of nonresidents; property of nonresident defined.

(a) A tax in an amount computed as provided in this section is imposed on the transfer of every nonresident's taxable estate having its taxable situs in the District.

(b) The tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which the District has jurisdiction for estate tax purposes and the denominator of which is the value of the decedent's gross estate.

(c) For the purposes of this section, taxable situs means in regard to:

(1) Real property — the place where the property is situated;

(2) Tangible personal property — the place where the property is customarily located at the time of the decedent's death; and

(3) Intangible personal property — the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner. (Feb. 24, 1987, D.C. Law 6-168, § 4, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3704. Authority for Mayor to compromise tax.

In all cases in which the Mayor claims that a decedent was domiciled in the District at the time of his or her death and the taxing authorities of a state or states make a similar claim with respect to their state or states, the Mayor may compromise the taxes imposed by this chapter. (Feb. 24, 1987, D.C. Law 6-168, § 5, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3705. Filing returns; payment of tax due.

(a) The personal representative of every estate subject to the tax imposed by this chapter who is required to file a federal estate return shall file with the Mayor, within 10 months after the death of the decedent:

- (1) A return for the tax due under this chapter; and
- (2) A copy of the federal estate tax return.

(b) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by subsection (a) of this section shall be similarly extended until 30 days after the end of the time period granted in the extension of time for the federal estate tax return. Upon obtaining an extension of time for filing the federal estate tax return, the personal representative shall provide the Mayor with a copy of the extension of time.

(c) The tax due under this chapter shall be paid by the personal representative to the Mayor no later than the date when the return covering this tax is required to be filed under subsection (a) or (b) of this section. If the tax is paid pursuant to subsection (b) of this section, interest shall be added to the tax in accordance with §§ 47-453 through 47-458 for the period between the date when the tax would have been due had no extension been granted and the date of full payment.

(d) Whenever the Mayor determines that the tax due under this chapter has been overpaid, the estate shall be entitled to a refund of the amount of the overpayment. An application for the refund shall be made to the Mayor within 3 years from the date of payment. (Feb. 24, 1987, D.C. Law 6-168, § 6, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(b), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Legislative history of Law 6-209. — See note to § 47-3701.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-3706. Jeopardy assessments.

(a) If the Mayor determines that the collection of the tax imposed by this chapter will be jeopardized by delay, he or she shall, whether or not the time otherwise prescribed by law for making a return and paying the tax has expired, immediately assess the tax, together with all interest and penalties. The tax, interest, and penalties shall become immediately due and payable, and immediate notice and demand shall be made by the Mayor for payment. Upon failure or refusal to pay the tax, interest, or penalties, the Mayor may collect by distraint.

(b) The collection of the whole or any part of the amount assessed under subsection (a) of this section may be stayed by filing with the Mayor a bond in the amount, not exceeding double the amount as to which the stay is desired, and with sureties as the Mayor deems necessary, conditioned upon the payment of the amount the collection of which is stayed, at the time at which,

but for this section, the amount would be due. (Feb. 24, 1987, D.C. Law 6-168, § 7, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3707. Authority for Mayor to file.

If any person fails to file a return at the time prescribed by law, or files a false or fraudulent return, the Mayor shall make a return from his or her own knowledge and from other information as he or she can obtain. Any return made by the Mayor pursuant to this section shall constitute prima facie evidence of the amount due. (Feb. 24, 1987, D.C. Law 6-168, § 8, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3708. Amended returns.

(a) If the personal representative files an amended federal estate tax return, he or she shall, within 30 days after filing the amended federal estate tax return, file with the Mayor an amended return covering the tax imposed by this chapter, accompanying the amended return with a copy of the amended federal estate tax return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, he or she shall pay the tax, together with interest in accordance with §§ 47-453 through 47-458, at the time of filing the amended return.

(b) If, upon final determination of the federal estate tax due, a deficiency is assessed, the personal representative shall within 30 days after this determination give written notice of the deficiency to the Mayor. If any additional tax is due under this chapter by reason of this determination, the personal representative shall pay the additional tax, together with interest in accordance with §§ 47-453 through 47-458, at the time he or she files the notice. (Feb. 24, 1987, D.C. Law 6-168, § 9, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(c), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Legislative history of Law 6-209. — See note to § 47-3701.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-3709. Testimony; production of books and records.

The Mayor, for the purpose of determining the correctness of any return filed under this chapter or for the purpose of making an estimate of the taxable estate of any taxpayer, is authorized to examine any books, papers, records, or memoranda of any person bearing upon the matters required to be included in the return and may summon any person to appear and produce books, records, papers, or memoranda bearing upon the matters required to be included in the

return, and give testimony or answer interrogatories under oath respecting the matter, and the Mayor shall have power to administer oaths to these persons. The summons may be served by any member of the Metropolitan Police Department. If any person having been summoned personally shall neglect or refuse to obey the summons, the Mayor may report the fact to the Superior Court of the District of Columbia and the court may compel obedience to the summons to the same extent as witnesses may be compelled to obey the subpoenas of that court. (Feb. 24, 1987, D.C. Law 6-168, § 10, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3710. Certification of payment by Mayor.

When the Mayor is satisfied that the tax liability imposed by this chapter has been fully discharged or provided for, the Mayor may certify that fact. (Feb. 24, 1987, D.C. Law 6-168, § 11, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3711. Lien for taxes.

The District shall have a lien for all taxes, penalties, and interest that are or may become due under this chapter on all property that a decedent dies seized or possessed of subject to tax under this chapter, in whatever form it may happen to be held and all property acquired in substitution. (Feb. 24, 1987, D.C. Law 6-168, § 12, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3712. Liability of personal representative.

The tax, interest, and penalties imposed by this chapter shall be paid by the personal representative. If any personal representative distributes either in whole or in part any of the property of an estate to the beneficiaries or creditors without having paid or secured the tax, interest, or penalties due pursuant to this chapter, he or she shall be personally liable for the tax, interest, and penalties so due, or so much of the tax, interest, and penalties as may remain due and unpaid, to the full extent of any property belonging to the person or estate that may have or will come into his or her custody or control. (Feb. 24, 1987, D.C. Law 6-168, § 13, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3713. Duty of personal representative.

The personal representative of every decedent subject to the tax imposed by this chapter shall, before distribution of the estate, pay to the Mayor any taxes, penalties, and interest due under this chapter. The taxes, penalties, and interest shall be paid by the personal representative to the extent of assets subject to his or her control. Each payment shall be applied, first, to any interest due on the tax, second, to any penalty imposed by this chapter, and then the balance, if any, to the tax. (Feb. 24, 1987, D.C. Law 6-168, § 14, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3714. Apportionment required.

(a) Except as may be otherwise provided in the decedent's will, whenever it appears upon any settlement of accounts or in any other appropriate action or proceeding that a person acting in a fiduciary capacity has paid an estate tax levied or assessed under the provisions of the estate tax law of the District or the United States upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of either law, the amount of the tax so paid shall be prorated among the persons interested in the estate to whom the property is or may be transferred or to whom any benefit accrues. Apportionment shall be made in the proportion that the value of the property, interest, or benefit of each person bears to the total value of the property, interests, and benefits received by all persons interested in the estate, except that in making proration each person shall have the benefit of any exemptions, deductions, and exclusions allowed by law in respect of the persons or the property passing to him or her.

(b) Notwithstanding subsection (a) of this section, in cases in which a trust is created or other provisions made in which any person is given an interest in income, an estate for years, an estate for life, or other temporary interest or estate in any property or fund, the tax on the temporary interest or estate shall be charged against and paid out of the corpus of that property or fund without apportionment between temporary interests or estates and remainders. (Feb. 24, 1987, D.C. Law 6-168, § 15, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3715. Monthly report of Register of Wills.

The Register of Wills shall report to the Mayor on every order appointing a personal representative in the District for the estate of any decedent. The report shall be in a form prepared by the Register of Wills, shall be filed with the Mayor at least once every month, and shall contain the name of the decedent, the date of his or her death, the name and address of the personal representative, and the value of the estate, as shown by the petition for

probate. (Feb. 24, 1987, D.C. Law 6-168, § 16, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3716. Final account.

No final account in any probate proceeding of a personal representative who is required to file a federal estate tax return shall be approved by the court unless the court finds that the tax imposed on the property by this chapter, including applicable interest, has been paid in full or that no tax is due. (Feb. 24, 1987, D.C. Law 6-168, § 17, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3717. Authority of Mayor to determine tax; deficiencies in tax.

(a) The Mayor shall have the authority to determine, redetermine, assess, or reassess any tax due under this chapter. If a deficiency in tax is determined by the Mayor, the person liable for the deficiency shall be notified of the determination of a deficiency by certified mail directed to the person's last known address. The notice shall state that a protest may be filed with the Mayor not more than 30 days after the date that the notice is certified as having been mailed, and the notice shall explain that the protest will be an opportunity to show cause why the deficiency should not be paid. If no protest is filed within the 30-day period, the deficiency as determined by the Mayor shall be final. If a protest is filed within the 30-day period, the Mayor shall provide an opportunity for a hearing concerning the matter and shall send notice of a final decision, together with a statement of taxes finally determined to be due, by certified mail to the last known address of the person liable for the payment of the deficiency.

(b) Any deficiency in tax that has become final under subsection (a) of this section shall, if no protest is filed, be due and payable within 10 days after the end of the 30-day period described in subsection (a) of this section. If a protest is filed, the deficiency shall be due and payable within 10 days after notice of the Mayor's final decision concerning the protest is mailed to the person liable for the deficiency.

(c) Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor under the provisions of this section may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3308. (Feb. 24, 1987, D.C. Law 6-168, § 18, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3718. Penalties.

(a) If any return required to be filed by this chapter is not filed within the time prescribed by this chapter, a penalty in accordance with §§ 47-453 through 47-458, shall be assessed against the estate.

(b) If any personal representative knowingly files a false or fraudulent return, he or she shall become liable in his or her own person and estate to the District in accordance with §§ 47-453 through 47-458.

(c) Any personal representative required by this chapter to pay the tax, make a return, keep any records, or supply any information for the purposes of computation, assessment, or collection of the tax, who willfully fails to pay the tax, make the return, keep the records, or supply the information at the time or times required by law shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

(d) Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in any return filed under this chapter, who shall refuse to permit the examination by the Mayor or any person designated by the Mayor of the books, papers, records, or memoranda, or who shall obstruct or hinder the Mayor or any person designated by the Mayor in the examination of any books, papers, records, or memoranda, shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$1,000.

(e) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia or any of his or her assistants in the name of the District of Columbia. (Feb. 24, 1987, D.C. Law 6-168, § 19, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(d), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Legislative history of Law 6-209. — See note to § 47-3701.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

§ 47-3719. Secrecy of returns.

(a) Except as may be necessary for the enforcement of this chapter, it shall be unlawful for any officer or employee, or any former officer or employee, of the District to divulge or make known in any manner any particulars set forth or disclosed in any return required to be filed under this chapter, and neither the original nor a copy of any return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of the litigation, whether or not the request is contained in an order of the court.

(b) Nothing contained in this section shall be construed to prevent the furnishing to a taxpayer of a copy of his or her return upon the payment of a fee as the Mayor may prescribe by rule.

(c) The provisions of this section shall also be applicable to any federal, state, or local inheritance or estate tax returns or copies and to any other federal, state, or local inheritance or estate tax information either submitted by the taxpayer or otherwise obtained.

(d) Notwithstanding the provisions of subsection (a) of this section, any tax returns or other tax information required by this chapter may be disclosed to any official of the District having a right to the information in his or her official capacity or to a contractor to the extent necessary for the processing, storage, transmission, or reproduction of the tax information or for the programming, maintenance, repair, testing, and procurement of equipment for purposes of tax administration. The provisions of subsections (a) and (f) of this section shall be applicable to all contractors and former contractors and to their officers and employees.

(e) The Mayor may permit the proper officer of the United States or of any state imposing a similar tax to inspect the tax returns filed with the Mayor pursuant to this chapter or may furnish the officer or representative a copy of the tax returns if the United States or the state grants substantially similar privileges to the Mayor.

(f) Any violation of the provisions of this section shall be a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed \$1,000, imprisonment for not more than 1 year, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia or his or her assistants in the name of the District of Columbia. (Feb. 24, 1987, D.C. Law 6-168, § 20, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3720. Rules.

The Mayor shall issue rules necessary to carry out the provisions of this chapter and to provide for the granting of extensions of time within which to perform the duties imposed by this chapter, in accordance with subchapter I of Chapter 15 of Title 1. (Feb. 24, 1987, D.C. Law 6-168, § 21, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Delegation of authority pursuant to Law

6-168. — See Mayor's Order 87-90, April 20, 1987.

§ 47-3721. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code of 1954.

Within 90 days after any amendment, repeal, or replacement of the Internal Revenue Code of 1954, the Mayor shall report to the Council concerning the amendment, repeal, or replacement. The reports shall include, but not be limited to, an analysis of the impact of conformity to the amendment, repeal, or replacement on District taxpayers, and on District of Columbia government revenues over the next 5-year period, and a recommendation as to whether any change in District law should be made as a result of the amendment, repeal, or replacement. (Feb. 24, 1987, D.C. Law 6-168, § 22, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

§ 47-3722. Effect of repealers.

(a) The repeal by this act of any provision of law shall not affect any act done or any right accrued or accruing under the provision of law before April 1, 1987, or any suit or proceeding had or commenced before April 1, 1987, but all rights and liabilities under prior law shall continue and may be enforced in the same manner and to the same extent as if the repeal had not been made.

(b) All offenses committed, and all penalties incurred prior to April 1, 1987, under any provision of law repealed, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been enacted. (Feb. 24, 1987, D.C. Law 6-168, § 23, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, §§ 402(e), 403(1), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

Legislative history of Law 6-209. — See note to § 47-3701.

Effective date. — Section 601(b) of D.C. Law 6-209 provided that Title III and sections

401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

References in text. — “This Act,” referred to in subsection (a), is D.C. Law 6-168, codified as § 47-3701 et seq.

§ 47-3723. Applicability.

The tax imposed by this chapter shall apply to the estates of decedents dying after March 31, 1987. (Feb. 24, 1987, D.C. Law 6-168, § 25, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 6-168. — See note to § 47-3701.

CHAPTER 38. SUPERMARKET TAX INCENTIVES.

Sec.

47-3801. Definitions.

47-3802. Identification of underserved areas.

Sec.

47-3803. Tax and license fee incentives.

47-3804. Rules.

§ 47-3801. Definitions.

For the purposes of this chapter, the term:

(1) "Fair market rent" means an amount as determined by the Mayor with reference to the average rent charged to tenants for occupancy of comparable space in other buildings in the underserved area.

(2)(A) "Supermarket" means a self-service retail establishment, independently owned or part of a corporation operating a chain of supermarkets under the same name, that:

(i) Is licensed as a grocery store pursuant to § 47-2827;

(ii) Offers for sale a full line of meat, seafood, fruits, vegetables, dairy products, and dry groceries, household products, and sundries; and

(iii) Occupies at least 6,000 square feet of space.

(B) The term "supermarket" shall include related service departments, such as kitchens, bakeries, pharmacies, or flower shops of a retail establishment that meet the criteria set by subparagraph (A) of this paragraph.

(3) "Supermarket development" means a new supermarket for which construction begins on or after September 29, 1988, or an expansion or modernization of an existing supermarket if the expansion or modernization begins on or after September 29, 1988.

(4) "Underserved area" means an area of no more than one square mile within the District having a ratio of less than 2 supermarkets per 10,000 residents or having less than 1 supermarket. (Sept. 29, 1988, D.C. Law 7-173, § 2, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1002 and 47-2827.

Legislative history of Law 7-173. — Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-124, which was referred

to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-229 and transmitted to both Houses of Congress for its review.

§ 47-3802. Identification of underserved areas.

The Mayor shall, within 180 days of September 29, 1988, submit to the Council for its approval, by resolution, a listing of all underserved areas ranked in order ranging from the most underserved to the least underserved. The Mayor may, from time to time, submit to the Council for its approval, by resolution, a listing of additional underserved areas ranked in order ranging from the most underserved to the least underserved. (Sept. 29, 1988, D.C. Law 7-173, § 3, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-173. — See note to § 47-3801.

Delegation of Authority Pursuant to D.C. Law 7-173, the "Supermarket Tax In-

centive Amendment Act of 1988.” — See
Mayor’s Order 89-84, April 24, 1989.

§ 47-3803. Tax and license fee incentives.

Any supermarket development in an underserved area approved by the Council, by resolution, shall be eligible for:

(1) A 5-year real property tax exemption as provided in § 47-1002(23); and

(2) A 5-year exemption from the license fee as provided in § 47-2827(b). (Sept. 29, 1988, D.C. Law 7-173, § 4, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-173. — See
note to § 47-3801.

centive Amendment Act of 1988.” — See
Mayor’s Order 89-84, April 24, 1989.

Delegation of Authority Pursuant to
D.C. Law 7-173, the “Supermarket Tax In-

§ 47-3804. Rules.

The Mayor shall, pursuant to subchapter I of Chapter 15 of Title I, issue rules to implement the provisions of this chapter. (Sept. 29, 1988, D.C. Law 7-173, § 7, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 7-173. — See
note to § 47-3801.

centive Amendment Act of 1988.” — See
Mayor’s Order 89-84, April 24, 1989.

Delegation of Authority Pursuant to
D.C. Law 7-173, the “Supermarket Tax In-

CHAPTER 39. TOLL TELECOMMUNICATION SERVICE TAX.

Sec.	Sec.
47-3901. Definitions.	47-3912. Interest and penalties.
47-3902. Imposition of tax.	47-3913. Jeopardy assessments.
47-3903. Deduction.	47-3914. Assessment; collection; deadline; fraudulent returns; extensions.
47-3904. Exemption.	47-3915. Overpayment; credit or refund; time for filing; interest.
47-3905. Returns and payment of tax.	47-3916. Lien for taxes.
47-3906. Alternate method of reporting.	47-3917. Secrecy of returns.
47-3907. Credit.	47-3918. Personal debt liability; priority; collection; "person" defined.
47-3908. Authority of Mayor to determine tax; deficiencies in tax.	47-3919. Rulemaking authority.
47-3909. Compromises.	47-3920. Effect of repealers and amendments.
47-3910. Closing agreements.	47-3921. Applicability.
47-3911. Testimony; production of books and records.	

§ 47-3901. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(2) "Gross charge" means the amount paid for the act or privilege of originating or receiving toll telecommunication service in the District of Columbia, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature and determined without any deduction on account of the cost of the telecommunication service, the cost of materials used, labor or service costs, or any other expenses.

(3) "Mayor" means the Mayor of the District of Columbia.

(4) "Person" means an individual, firm, partnership, society, club, association, joint-stock company, domestic or foreign corporation, estate, receiver, trustee, assignee, referee, or a fiduciary or other representative, whether or not appointed by a court, or any combination of individuals acting as a unit.

(5) "Telecommunication company" includes, and is not limited to, each person or lessee of a person who provides for the transmission or reception, within the District of Columbia, of any form of toll telecommunication service for a consideration.

(6) "Toll telecommunication service" means the transmission or reception of any sound, vision, or speech communication for which there is a toll charge that varies in amount with the distance or elapsed transmission time of each individual communication; or the transmission or reception of any sound, vision, or speech communication that entitles a person, upon the payment of a periodic charge that is determined as a flat amount or upon the basis of total elapsed transmission time, to an unlimited number of communications to or from all or a substantial portion of persons who have telephone or radiotelephone stations in a specified area outside the local telephone system area in which the station that provides the service is located. (May 23, 1989, D.C. Law 8-4, § 2, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 2, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1508, 47-2005 and 47-3918.

Legislative history of Law 8-4. — Law 8-4,

the "Toll Telecommunications Service Tax Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-177. The Bill was

adopted on first and second readings on February 28, 1989 and March 14, 1989, respectively. Signed by the Mayor on March 29, 1989, it was assigned Act No. 8-14 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-26. — Law 8-26, the “Toll Telecommunications Service Tax Act of 1989,” was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The

Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

Delegation of authority under D.C. Law 8-26, the “Toll Telecommunication Service Tax Act of 1989.” — See Mayor’s Order 91-175, October 24, 1991.

§ 47-3902. Imposition of tax.

(a) Beginning March 1, 1989, a tax is imposed on all telecommunication companies for the privilege of providing toll telecommunication service in the District. Except as provided by subsection (b) of this section, the rate shall be 9.7% of the monthly gross charges from the sale of toll telecommunication service that originates or terminates in the District, and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid. The tax rate of 9.7% shall apply to the monthly gross charges from sales included in bills rendered after June 30, 1991.

(b) After May 31, 1994, the rate shall be 10% of the monthly gross charges from the sale of toll telecommunication service that originates or terminates in the District, and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid. The tax rate of 10% shall apply to monthly gross charges from sales included in bills rendered after May 31, 1994. (May 23, 1989, D.C. Law 8-4, § 3, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 3, 36 DCR 4723; Aug. 17, 1991, D.C. Law 9-34, § 3, 38 DCR 4223; June 11, 1992, D.C. Law 9-124, § 3, 39 DCR 3205; Sept. 10, 1992, D.C. Law 9-145, § 112, 39 DCR 4895; June 14, 1994, D.C. Law 10-128, § 107, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

Legislative history of Law 9-34. — Law 9-34, the “District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-221. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-61 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-124. — Law 9-124, the “District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-464. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-198 and trans-

mitted to both Houses of Congress for its review. D.C. Law 9-124 became effective on June 11, 1992.

Legislative history of Law 9-145. — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

Legislative history of Law 10-128. — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of

Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

§ 47-3903. Deduction.

A deduction may be taken from gross charges for amounts represented by accounts found to be worthless and actually charged off for income or franchise tax purposes not more than 3 years after the payment of the tax on the amounts, if:

- (1) The tax on the amounts has been previously paid to the District; and
- (2) Any amounts recovered after being deducted from the gross charges as worthless are included in the first return filed after collection of the amounts and the tax is paid thereon. (May 23, 1989, D.C. Law 8-4, § 4, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 4, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3904. Exemption.

Gross charges from the sale, by any telecommunication company, of toll telecommunication service for resale to any other telecommunication company subject to the tax under this chapter shall be exempt from taxation under this chapter. (May 23, 1989, D.C. Law 8-4, § 5, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 5, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3905. Returns and payment of tax.

(a) On or before the 20th day of each calendar month each telecommunication company subject to tax under this chapter shall file a return with the Mayor that reports the amount of its monthly gross charges for the preceding calendar month from the sale of toll telecommunication service that originate or terminate in the District and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid.

(b) For each calendar month beginning March 1, 1989, each telecommunication company shall pay the tax imposed by this chapter before the 21st day of the succeeding calendar month. The return for each calendar month shall be filed at the time payment is made or on the 20th day of the succeeding calendar month, whichever is earlier.

(c) The form of the return shall be prescribed by the Mayor and the return shall contain information that the Mayor considers necessary for the proper administration of the tax. (May 23, 1989, D.C. Law 8-4, § 6, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 6, 36 DCR 4723; Apr. 9, 1997, D.C. Law 11-198, § 106, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-198, in (a), substituted “On a quarterly basis and at the quarterly intervals prescribed by the Mayor” for “On or before the 20th day of each calendar month” and substituted “quarterly gross charges for the preceding quarter” for “monthly gross charges for the preceding calendar month”; and deleted the former second sentence in (b).

Section 59 of D.C. Law 11-255 repealed §§ 101, 102, 103(a) and 106 of D.C. Law 11-198.

This section is set out above with the language changed by D.C. Law 11-198 restored to read as it did prior to that amendment.

Emergency act amendments. — For temporary amendment of section, see § 108 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

For temporary repeal of § 106 of D.C. Act 11-360, see § 2(e) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

Section 1001 of D.C. Act 11-302 provides for application of the act.

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

§ 47-3906. Alternate method of reporting.

Beginning March 1, 1989, a telecommunication company subject to the tax imposed by this chapter may be allowed an alternate method of reporting its monthly gross charges upon showing, to the satisfaction of the Mayor before April 1, 1989, or 30 days from the first day the telecommunication company becomes subject to this tax, whichever is later, or 30 days from the first day a telecommunication company begins offering a new toll telecommunication service in the District that the telecommunication company does not have the capability to identify the jurisdiction of origination or termination of a particular toll telecommunication service. This showing shall be made by a written petition to the Mayor, which shall include the factual basis for the company’s inability to identify the jurisdiction of origination or termination of a particular toll telecommunication service, with supporting documentation, and an alternate method of reporting for the services for which the company is unable to identify the jurisdiction of origination or termination that the company believes is reasonable and equitable, with supporting documentation. The Mayor may employ a reasonable and equitable alternate method for reporting a telecommunication company’s gross charges from this service based on information submitted pursuant to this section or any other information made available to the Mayor. Any alternate method for reporting a telecommunication company’s gross charges that is authorized by the Mayor shall apply only to the service for which the company is unable to identify the jurisdiction of origination or termination and shall not affect the reporting of any other gross charges. Nothing in this section shall be deemed to relieve the obligation of a telecommunication company to pay the tax imposed by this

chapter. (May 23, 1989, D.C. Law 8-4, § 7, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 7, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3907. Credit.

To prevent actual multi-state taxation of the sale of toll telecommunication service, for the month beginning March 1, 1989, and for each succeeding month, any telecommunication company, upon proof that it has paid a properly due excise, sales, use, or gross receipts tax in another jurisdiction on a sale that is subject to taxation under this chapter, shall be allowed a credit against the tax for the amount paid, but in no event shall the credit permitted under this section exceed the tax imposed under this chapter. (May 23, 1989, D.C. Law 8-4, § 8, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 8, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3908. Authority of Mayor to determine tax; deficiencies in tax.

(a) The Mayor shall have the authority to determine, redetermine, assess, or reassess any tax due under this chapter. If a deficiency in tax is determined by the Mayor, the person liable for the deficiency shall be notified of the determination of a deficiency by certified mail sent to the person's last known address. The notice shall state that a protest may be filed with the Mayor not more than 30 days after the date that the notice is certified as having been mailed and shall explain that the protest is an opportunity to show cause why the deficiency should not be paid. If no protest is filed within the 30-day period, the deficiency as determined by the Mayor shall be final. If a protest is filed within the 30-day period, the Mayor shall provide an opportunity for a hearing concerning the matter and shall send notice of a final decision and a statement of taxes finally determined to be due, by mail, to the last known address of the person liable for the payment of the deficiency.

(b) Any deficiency in tax that has become final under subsection (a) of this section shall be due and payable, if no protest is filed, within 10 days after the end of the 30-day period described in subsection (a) of this section. If a protest is filed, the deficiency shall be due and payable within 10 days after notice of the Mayor's final decision concerning the protest is mailed to the person liable for the deficiency.

(c) Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor under the provisions of this section may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3308. (May 23, 1989, D.C.

Law 8-4, § 9, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 9, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3909. Compromises.

(a) Whenever in the opinion of the Mayor there is, with respect to any tax imposed under this chapter, any doubt as to the liability of the taxpayer or the collectibility of the tax, the Mayor may compromise the tax.

(b) Any person who, in connection with a compromise, or an offer of compromise under this section or in connection with a closing agreement or offer to enter into a closing agreement under this chapter, willfully (1) conceals from any officer or employee of the District property belonging to the person liable for the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record or makes under oath a false statement that relates to the financial condition of the person liable for the tax, upon conviction, shall be fined not more than \$5,000, imprisoned for not more than 1 year, or both. Prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia in the name of the District of Columbia.

(c) The Mayor shall have the power, for cause shown, to compromise any penalty that may be imposed by the Mayor under the provisions of this title. The Mayor may adjust interest where, in his or her opinion, the facts in the case warrant the adjustment. (May 23, 1989, D.C. Law 8-4, § 10, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 10, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3910. Closing agreements.

The Mayor may enter into a written agreement with any person that relates to the liability of the person with respect to the tax for any period that ends prior to the date of the agreement. If the agreement is approved by the Mayor within the time stated in the agreement, or later agreed to, the agreement shall be final and conclusive and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon or the amendment modified, and in any suit or proceeding relating to the tax liability of the person the agreement shall not be annulled, modified, set aside, or disregarded. (May 23, 1989, D.C. Law 8-4, § 11, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 11, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3911. Testimony; production of books and records.

The Mayor, for the purpose of determining the correctness of any return filed under this chapter or for the purpose of making an estimate of the gross charges subject to tax under this chapter, may examine any books, papers, records, or memoranda of any person that bear upon the matters required to be included in the return and may summon any person to appear and produce books, records, papers, or memoranda that bear upon the matters required to be included in the return and give testimony or answer interrogatories under oath with respect to the matter. The Mayor may administer the oath to any person summoned to give testimony or answer interrogatories. The summons may be served by any member of the Metropolitan Police Department. If any person who was personally summoned neglects or refuses to obey the summons, the Mayor may report the fact to the Superior Court of the District of Columbia and the Court may compel obedience to the summons to the same extent that a witness may be compelled to obey a subpoena of that Court. (May 23, 1989, D.C. Law 8-4, § 12, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 12, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3912. Interest and penalties.

(a) If the tax is not paid on or before the last date prescribed for payment, without regard to any extension of time, interest at the rate of 1½% per month or fraction of a month, shall be added to the tax from the date prescribed for its payment until the date paid. This section shall not apply if the tax due is less than \$1.

(b)(1) In the case of a substantial understatement of the tax, there shall be added to the tax an amount equal to 20% of any underpayment attributable to the understatement.

(2) For the purposes of this subsection, there is a substantial understatement of tax if the amount of the understatement exceeds the greater of:

- (A) 10% of the tax required to be shown on the return or report; or
- (B) \$2,000.

(3) For the purposes of this subsection, the term “understatement” means the excess of the amount of tax required to be shown on a return or determined through an audit or review, over the amount of tax imposed that is shown on an original or amended return, less any overpayment, credit, or refund.

(4) If satisfied that the understatement was due to reasonable cause, the Mayor may waive all or part of the penalty provided for in this subsection.

(c)(1) For failure to file a return or failure to pay the tax within the time prescribed pursuant to law, there shall be added to any unpaid portion of the tax due an amount equal to 5% of the tax for each month that the failure to file or pay continues, not to exceed 25% in the aggregate.

(2) If satisfied that the failure to file or pay was due to reasonable cause, the Mayor may waive all or any part of the penalty provided for in this subsection.

(d)(1) Any person who has custody or control of books, papers, records, or memoranda that bear upon the matters required to be included in a return filed under this chapter, who refuses to permit the Mayor or his or her designee to examine the books, papers, records, or memoranda, or who obstructs or hinders the Mayor or his or her designee in the examination of any books, papers, records, or memoranda, shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$1,000.

(2) Prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia in the name of the District of Columbia. (May 23, 1989, D.C. Law 8-4, § 13, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 13, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3913. Jeopardy assessments.

(a) If the Mayor believes that the collection of the tax will be jeopardized by delay, the Mayor shall immediately assess the tax and any penalty and interest due on the tax, whether or not the time otherwise prescribed by law for making the return and paying the tax has expired.

(b) After the assessment provided for in subsection (a) of this section is made, the amount of the assessment shall be immediately due for payment.

(c) If the person does not pay the amount of the assessment, the Mayor may distrain the person's property as provided in §§ 47-1601, 47-1702, and 47-1706. (May 23, 1989, D.C. Law 8-4, § 14, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 14, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3914. Assessment; collection; deadline; fraudulent returns; extensions.

(a) Except as provided in subsections (b) through (d) of this section, the tax shall be assessed within 3 years after the return is filed, and no proceeding in court without assessment for the collection of the tax and no collection by distraint shall be initiated after the expiration of the 3-year period.

(b) If the person liable for payment of the tax omits from his or her return gross charges properly includable that are in excess of 25% of the taxable gross charges reported on the return, the tax may be assessed or a proceeding in court for the collection of the tax may be initiated at any time within 5 years after the return was filed.

(c) For purposes of subsections (a) and (b) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as having been filed on the last day.

(d) For fraudulent returns filed or for failure to make or file a return, the Mayor may assess the tax or begin a proceeding in court to collect the tax at any time.

(e) If before the expiration of the time prescribed in subsection (a) of this section, the Mayor and the person liable for payment of the tax agree in writing to an assessment after that time, the agreement and any subsequent agreements in writing made before the expiration of the period previously agreed upon shall govern the deadline for making the assessment.

(f) If the assessment has been made within the applicable period of limitation, the Mayor may collect the tax by distraint as provided in §§ 47-1601, 47-1702, and 47-1706, or may bring a court action to collect the tax if the collection on the court action is commenced:

(1) Within 3 years after the assessment of the tax; or

(2) Before the end of a payment period agreed upon in writing by the Mayor and the person liable for payment of the tax before the end of the 3-year period described in paragraph (1) of this subsection.

(g) The payment period agreed upon under subsection (e) of this section may be extended by subsequent agreements made in writing before the end of the previously agreed upon period. (May 23, 1989, D.C. Law 8-4, § 15, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 15, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3915. Overpayment; credit or refund; time for filing; interest.

(a) When there has been an overpayment of the tax, the amount of the overpayment may be credited against the tax liability of the person who made the overpayment.

(b) If the overpayment exceeds the liability, the Mayor shall refund the difference to the person.

(c) The Mayor shall not permit any credit or refund after 3 years from the time the tax was paid unless, before the 3-year period ends, the person liable for payment of the tax files a claim for the overpayment.

(d) Every claim for credit or refund shall be in writing, under oath, accompanied by a statement of the specific grounds for the claim, and delivered to the Mayor.

(e) If the Mayor or any court finds that any part of a tax assessed as a deficiency was an overpayment, the District government shall pay interest on the overpayment from the date of the overpayment until the date of the refund, and any interest on the overpayment that was paid by the person liable for payment of the tax shall be refunded.

(f) The interest payable by the District government under subsection (e) of this section shall be at the rate provided in § 47-3310(c). (May 23, 1989, D.C. Law 8-4, § 16, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 16, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3916. Lien for taxes.

The District government shall have a lien for all taxes, penalties, and interest that are or may become due under this chapter on all property or rights to property of the person liable for payment of the tax that is located in the District. (May 23, 1989, D.C. Law 8-4, § 17, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 17, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3917. Secrecy of returns.

(a) Except as may be necessary for the enforcement of this chapter, it shall be unlawful for an officer or employee or a former officer or employee of the District government to divulge or make known in any manner any particulars disclosed in any return required to be filed under this chapter, and neither the original nor a copy of a return desired for use in litigation in court shall be furnished where neither the District nor the United States government is interested in the result of the litigation, whether or not the request is contained in an order of the court.

(b) Nothing contained in this section shall be construed to prevent the District government from furnishing to the person liable for payment of the tax a copy of its return upon the payment of a fee prescribed by the Mayor by rule.

(c) Notwithstanding the provisions of subsection (a) of this section, any return or other tax information required by this chapter may be disclosed to an official of the District government who has a right to the information in his or her official capacity or to a contractor to the extent necessary to process, store, transmit, or reproduce tax information or to program, maintain, repair, test, or procure equipment for purposes of tax administration. The provisions of subsections (a) and (e) of this section shall be applicable to all contractors and former contractors and to their officers and employees.

(d) The Mayor may permit the proper officer of the United States or of any state that imposes a similar tax to inspect the returns filed with the Mayor pursuant to this chapter or furnish the officer or representative a copy of the return if the United States or the state grants a substantially similar privilege to the Mayor.

(e) Any violation of the provisions of this section shall be a misdemeanor and shall be punishable by a fine of not more than \$1,000, imprisonment for not more than 1 year, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel of the District of Columbia in the name of the District of Columbia. (May 23, 1989, D.C. Law 8-4, § 18, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 18, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3918. Personal debt liability; priority; collection; “person” defined.

(a) Any tax, interest, or penalty due under this chapter shall be a personal debt of the person liable for the tax, penalty, or interest from the time the tax, interest, or penalty is due and payable and shall have the same priority as other District taxes.

(b) For purposes of this section, the term “person” includes the definition provided in § 47-3901(4), any officer of a corporation, any employee of a corporation responsible for payment of the tax, and any member of a partnership or association responsible for payment of the tax. (May 23, 1989, D.C. Law 8-4, § 19, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 19, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

§ 47-3919. Rulemaking authority.

The Mayor shall issue rules to carry out the provisions of this act in accordance with § 1-1506. (May 23, 1989, D.C. Law 8-4, § 23, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 23, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

References in text. — “This act,” referred to in this section, is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

§ 47-3920. Effect of repealers and amendments.

(a) The repeal or amendment by this act of any provision of law shall not affect any act done or any right accrued or accruing under the provision of law before September 20, 1989 or any suit or proceeding commenced before September 20, 1989, but all rights and liabilities under prior law shall continue and may be enforced in the same manner and to the same extent as if the repeal or amendment had not been made.

(b) All offenses committed and all penalties incurred prior to September 20, 1989 under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this act had not been enacted. (May 23, 1989, D.C. Law 8-4, § 24, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 24, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

References in text. — “This act,” referred to in (a) and (b), is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

§ 47-3921. Applicability.

The provisions of § 22 shall apply as of July 1, 1986. All other sections of this act shall apply as of March 1, 1989. (May 23, 1989, D.C. Law 8-4, § 25, 36 DCR 2375; Sept. 20, 1989, D.C. Law 8-26, § 25, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-4. — See note to § 47-3901.

Legislative history of Law 8-26. — See note to § 47-3901.

References in text. — “Section 22” is § 22

of D.C. Law 8-26, which is codified at § 47-2501.

“This act,” referred to in this section, is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

CHAPTER 40. DRUG PREVENTION AND CHILDREN
AT RISK TAX CHECK-OFF.

Sec.

47-4001. Definitions.

47-4002. Establishment of the Public Fund for
Drug Prevention and Children at
Risk; duties.

Sec.

47-4003. Fund qualifications; terms of office;
compensation.

47-4004. Rules of procedure; contributions.

47-4005. Rules.

§ 47-4001. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(2) "Children at risk" means persons under 18 years of age who have had direct or indirect contact with drugs.

(3) "Drug prevention" means a program designed to promote positive self-worth and stress the importance of the avoidance of drug and alcohol consumption.

(4) "Fund" means the Public Fund established in § 47-4002, which is responsible for investment and distribution of the funds generated by the tax check-off.

(5) "Tax check-off" means the drug prevention and children at risk tax check-off system established in § 47-1812.11a. (Mar. 8, 1991, D.C. Law 8-246, § 2, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1812.11a.

Legislative history of Law 8-246. — Law 8-246, the "District of Columbia Drug Prevention and Children at Risk Check-Off Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-561, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-330 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-56. — Law 10-56, the "Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993," was introduced in Council and assigned Bill No. 10-114, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 13, 1993 and September 21, 1993, respectively. Signed by the Mayor on October 1, 1993, it was assigned Act No. 10-109 and transmitted to both Houses of Congress for its review. D.C. Law 10-56 became effective on November 20, 1993.

§ 47-4002. Establishment of the Public Fund for Drug
Prevention and Children at Risk; duties.

(a) There is established a Public Fund for Drug Prevention and Children at Risk.

(b) The Fund shall distribute the funds that are generated by the tax check-off system established in § 47-1812.11a. By April 1, 1992, the Fund shall publish guidelines by which a District nonprofit organization or government agency may apply for funds. Funds shall be distributed on an annual basis as determined by the Fund. by September 1, 1992, the Fund shall publish an estimated projection of funds generated by the tax check-off based on the income tax returns filed by April 15, 1992. The Fund shall submit an annual

financial report to the Mayor and Council of the District of Columbia ("Council") no later than March 1st of each year.

(c) The Fund shall publicize the availability of a tax check-off for drug prevention and children at risk. The Mayor shall assist the Fund to insure public education regarding the tax check-off and District taxpayer participation in the tax check-off.

(d) The Fund shall take any necessary step to encourage the federal government to match the funds generated through the tax check-off.

(e) The Fund may recommend other means to generate funds for drug prevention and children at risk.

(f) The Fund shall encourage collaborative efforts and foster a public-private partnership in the development of drug prevention and children at risk programs.

(g) The Fund shall advise the Mayor and the Council on action needed to insure effective programming for drug prevention and children at risk in the District.

(h) The funds generated through the tax check-off shall be invested by the Fund in bonds, treasury notes, other evidences of indebtedness of the United States, or federally insured commercial banks of the United States that are in compliance with § 1-1191.1 et seq. (Mar. 8, 1991, D.C. Law 8-246, § 3, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in §§ 47-1812.11a and 47-4001.

Legislative history of Law 8-246. — See note to § 47-4001.

Legislative history of Law 10-56. — See note to § 47-4001.

§ 47-4003. Fund qualifications; terms of office; compensation.

(a) The Fund shall consist of:

(1) Two ex officio members who shall be District government officials and appointed by the Mayor; and

(2) Nine persons from the general public to serve as members who shall be appointed by the Mayor with the advice and consent of the Council.

(b) All members of the Fund shall be residents of the District. Of the public members first appointed, 2 shall be appointed to a 1-year term of office, 3 shall be appointed to a 2-year term of office, and 4 shall be appointed to a 3-year term of office. After the initial appointments, members from the general public shall serve a 3-year term.

(c) The members of the Fund from the general public shall include parents and representatives from early childhood development organizations, health professions, education, drug prevention organizations, and the media.

(d) The Fund shall select a chair from among the Fund's members.

(e) A vacancy on the Fund shall be filled in the same manner as the original appointment.

(f) A member of the Fund may continue to serve after the expiration of the member's term until a successor is appointed and sworn into office.

(g) Members of the Fund shall receive no compensation, but may be reimbursed for actual expenses incurred in the performance of official duties pursuant to rules issued by the Mayor in accordance with § 1-612.8.

(h) A member of the Fund shall not be reimbursed for actual expenses that exceed \$100 in any fiscal year. The total compensation allowed for members of the Fund shall not exceed \$1,100 in any fiscal year. (Mar. 8, 1991, D.C. Law 8-246, § 4, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-246. — See note to § 47-4001.

Legislative history of Law 10-56. — See note to § 47-4001.

§ 47-4004. Rules of procedure; contributions.

(a) The Fund may develop rules of organization and procedure pursuant to subchapter I of Chapter 15 of Title 1.

(b) The Fund shall meet at least 4 times annually.

(c) The Fund shall encourage and be authorized to accept in-kind contributions from public or private agencies.

(d) The Fund shall publish the Fund's grant awards in an annual report. The Fund shall request the assistance of the media in publicizing to the general public the grant awards. (Mar. 8, 1991, D.C. Law 8-246, § 5, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Legislative history of Law 8-246. — See note to § 47-4001.

Legislative history of Law 10-56. — See note to § 47-4001.

§ 47-4005. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this chapter.

(b) The rules shall include standards for:

(1) The transfer of funds to the Fund; and

(2) The reimbursement of costs incurred by the Mayor in the collection, processing, accounting, or disbursement of the funds generated by the tax check-off. (Mar. 8, 1991, D.C. Law 8-246, § 7, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

Section references. — This section is referred to in § 47-1812.11a.

Legislative history of Law 10-56. — See note to § 47-4001.

Legislative history of Law 8-246. — See note to § 47-4001.

TITLE 48. TRADE PRACTICES.

Chapter

1. Registration of Beverage Bottles..... §§ 48-101 to 48-102.
2. Registration of Milk Containers..... §§ 48-201 to 48-211.
3. Registration of Containers for Beverages Composed
 Principally of Milk..... §§ 48-301 to 48-307.
4. Registration of Labor Union Labels..... §§ 48-401 to 48-403.
5. Trade Secrets..... §§ 48-501 to 48-510.

CHAPTER 1. REGISTRATION OF BEVERAGE BOTTLES.

Sec.

48-101. Filing and publication of bottle de-
 scription.

Sec.

48-102. Unauthorized use or sale of registered
 bottles.

§ 48-101. Filing and publication of bottle description.

All manufacturers and vendors of mineral waters and other beverages allowed by law to be sold in bottles, upon which their names or marks shall be respectively impressed, may file with the Recorder of Deeds of the District of Columbia a description of such bottles and of the names or marks thereon, and shall cause the same to be published for not less than 2 weeks successively in a daily or weekly newspaper published in the District. (Mar. 3, 1901, 31 Stat. 1333, ch. 854, § 877; July 5, 1966, 80 Stat. 263, Pub. L. 89-493, § 6; 1973 Ed., § 48-101.)

§ 48-102. Unauthorized use or sale of registered bottles.

It shall be unlawful for any person, without the permission of the owner thereof, to fill with mineral waters or other beverages any such bottles so marked, for sale, or to traffic in any such bottles so marked and not bought by him of such owner; and every person so offending shall be liable to a penalty of \$.50 for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the 1st offense, and of \$5 for every subsequent offense, to be recovered as other fines are recovered in the District. (Mar. 3, 1901, 31 Stat. 1333, ch. 854, § 878; 1973 Ed., § 48-102.)

Cross references. — As to criminal penalty for altering or imitating trademark or other label, see § 22-1402.

CHAPTER 2. REGISTRATION OF MILK CONTAINERS.

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| <p>Sec.
48-201. Filing and publication of container description.
48-202. Unauthorized use or sale of registered bottles.
48-203. Defacing or destroying registered containers.
48-204. Refusal to surrender to registrant a registered container prima facie evidence of unlawful use.
48-205. Proceeding in Superior Court to ascertain violations; search warrant.</p> | <p>Sec.
48-206. Title to registered mark to be acquired only by written consent of registrant.
48-207. Rights of former registrants preserved.
48-208. "Person" defined.
48-209. Type of containers to which law is applicable.
48-210. Prosecutions; penalties.
48-211. Injunctive relief.</p> |
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§ 48-201. Filing and publication of container description.

All persons, firms, partnerships, or corporations engaged in the bottling, selling, or distributing of milk or cream in bottles, cans, crates, or other containers within the District of Columbia, on which the name, trademark, or other device designating the owner is branded, blown, cut, carved, embossed, or impressed, may file with the Recorder of Deeds of the District of Columbia a description of the name or names, marks or devices so used by them, the said description to be a statement under oath by the owner of said name, mark, or device. The said owner of said name, mark, or device shall, after filing the description as above required, cause the same to be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the District of Columbia. The said owner of said name, mark, or device shall thereafter file with the Recorder of Deeds of the District of Columbia an affidavit made by himself or any other competent person stating that said description has been published as herein provided, and shall file in the office of the Health Department of the District of Columbia a copy of said registration and said affidavit of publication, both duly certified as true copies by the Recorder of Deeds of the District of Columbia. The registration of any such name, mark, or device shall be complete on the filing of said certified copies in the Health Office of the District of Columbia, and thereafter the name, mark, or device shall be considered as registered in accordance with this chapter, and any bottle, can, crate, or other container on which said name, mark, or device shall be or shall be placed shall be considered as registered in accordance with this chapter. (July 3, 1926, 44 Stat. 809, ch. 737, § 1; July 5, 1966, 80 Stat. 263, Pub. L. 89-493, § 7; 1973 Ed., § 48-201.)

Cross references. — As to labelling of milk containers, see § 10-115.

As to milk, cream, and ice cream, see Chapter 3 of Title 33.

Health Department abolished. — The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and

Reorganization Order No. 52, dated June 30, 1953, combined and redesignated Organization Order No. 141, dated February 11, 1964, established under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and para-medical functions. The Anatomical Board was established under the direction and control of the Director of Public Health consisting of

members as prescribed in the D. C. Code. Prior to redesignation, the Order abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board, and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967.

Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

§ 48-202. Unauthorized use or sale of registered bottles.

Whoever shall by himself or his agent fill, use, sell, offer for sale, give, buy, traffic in, or shall have in his possession with intent to fill, use, sell, offer for sale, give, buy, or traffic in any registered milk bottle or bottles, can or cans, crate or crates, or other containers on which appears the name, mark, or device, registered by another person, shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties in this chapter. (July 3, 1926, 44 Stat. 810, ch. 737, § 2; 1973 Ed., § 48-202.)

§ 48-203. Defacing or destroying registered containers.

Whoever shall by himself or his agent willfully deface, erase, alter, obliterate, cover up, or otherwise remove or conceal any registered name, mark, or device registered by another and being on any milk bottle, can, crate, or other container, or shall willfully break, destroy, or otherwise injure any registered milk bottle, can, crate, or other container which has been registered by another shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in this chapter. (July 3, 1926, 44 Stat. 810, ch. 737, § 3; 1973 Ed., § 48-203.)

§ 48-204. Refusal to surrender to registrant a registered container prima facie evidence of unlawful use.

In any prosecution under this chapter, the refusal of any person having possession of any registered milk bottle, can, crate, or other container to surrender possession of the same to the registrant of the name, mark, or device appearing thereon, after notice and demand by said registrant or his agent, shall be prima facie evidence of the unlawful use or traffic in the same contrary to the provisions of this chapter. (July 3, 1926, 44 Stat. 810, ch. 737, § 4; 1973 Ed., § 48-204.)

§ 48-205. Proceeding in Superior Court to ascertain violations; search warrant.

Whenever any person who has registered milk bottles, cans, crates, or other containers in accordance with the provisions of this chapter shall by himself or his agent make oath before the Clerk of the Superior Court of the District of

Columbia that he has reason to believe, and does believe, that any of his registered milk bottles, cans, crates, or other containers are being filled, used, bought, trafficked in, held, sold, offered for sale, broken, injured, or destroyed within the District of Columbia contrary to the provisions of this chapter, by any person without the written consent of the registrant, the judge of the Superior Court of the District of Columbia to whom said complaint under oath is made may forthwith issue a search warrant directed to any police officer or other proper officer to search the premises whereon or wherein said registered milk bottles, cans, crates, or other containers are unlawfully held and may issue a warrant for the arrest of the person complained against; and if any one or more of such registered milk bottles, cans, crates, or other containers, or any parts of the same, shall be found upon the premises by the officer executing the said search warrant, he shall seize and take possession of all such registered milk bottles, cans, crates, or other containers, or parts thereof, and shall cause the same to be brought before the judge of the Superior Court of the District of Columbia, who shall award the said registered milk bottles, cans, crates, and other containers to the person entitled to the same. (July 3, 1926, 44 Stat. 810, ch. 737, § 5; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 48-205.)

Cross references. — As to return of property by Property Clerk, see § 4-157.

As to search warrants, see §§ 23-521 to 23-525.

§ 48-206. Title to registered mark to be acquired only by written consent of registrant.

No title may be acquired to any mark, name, or device, or any milk bottle, can, crate, or other container registered in accordance with this chapter except by the consent in writing of the person who registered the same. (July 3, 1926, 44 Stat. 811, ch. 737, § 6; 1973 Ed., § 48-206.)

§ 48-207. Rights of former registrants preserved.

All persons who prior to July 3, 1926, registered any milk bottles, cans, crates, or other containers in accordance with the laws existing at the time of said registration shall be exempted from filing a new description in accordance with the terms of this chapter and shall be entitled to the rights and benefits accruing under this chapter in the same manner as if said registration was made in accordance with this chapter; provided, that a copy of said registration duly certified by the Clerk of the United States District Court for the District of Columbia was within 30 days from and after July 3, 1926, filed in the Health Office of the District of Columbia. (July 3, 1926, 44 Stat. 811, ch. 737, § 7; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; 1973 Ed., § 48-207.)

§ 48-208. “Person” defined.

Whenever the word “person” is used in this chapter, it shall apply equally as well to 1 or more persons, copartnerships, and corporations. (July 3, 1926, 44 Stat. 811, ch. 737, § 8; 1973 Ed., § 48-208.)

§ 48-209. Type of containers to which law is applicable.

The provisions of this chapter shall apply to all bottles, cans, crates, and other containers in which milk or cream of any grade, quality, or character is sold or offered for sale and shall include bottles, cans, crates, and other containers in which skimmed milk, buttermilk, double cream, and sour milk are sold. (July 3, 1926, 44 Stat. 811, ch. 737, § 9; 1973 Ed., § 48-209.)

§ 48-210. Prosecutions; penalties.

The violation of any of the provisions of this chapter shall be a misdemeanor, and prosecutions for violations of this chapter shall be in the Superior Court of the District of Columbia. Upon conviction of a violation of the provisions of this chapter the penalty shall be a fine of not more than \$50 for the 1st offense and a fine of not more than \$100 for the 2nd and each subsequent offense. (July 3, 1926, 44 Stat. 811, ch. 737, § 10; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 48-210.)

Cross references. — As to criminal penalty for altering or imitating trademarks, see § 22-1402.

§ 48-211. Injunctive relief.

Whenever any person who has registered milk bottles, cans, crates, or other containers as herein provided shall have, upon complaint under oath, prosecuted any other person for violation of the provisions of this chapter in the use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of such registered milk bottles, cans, crates, or other containers and said other persons shall have been convicted on 3 occasions at least for the said unlawful use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of said registered milk bottles, cans, crates, or other containers, then the said registrant of said milk bottles, cans, crates, or other containers shall be entitled, upon making complaint to a judge of the Superior Court of the District of Columbia, to have issued an injunction directed to said violator enjoining him from further illegal use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of said registered milk bottles, cans, crates, or other containers. (July 3, 1926, 44 Stat. 811, ch. 737, § 11; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(a), (b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(54); 1973 Ed., § 48-211.)

CHAPTER 3. REGISTRATION OF CONTAINERS FOR BEVERAGES COMPOSED PRINCIPALLY OF MILK.

Sec.

48-301. Definitions.

48-302. Filing and publication of vessel description.

48-303. Unauthorized use, defacing, or sale of registered vessel.

48-304. Use or possession of vessel without purchase of contents prima facie evidence of unlawful use.

Sec.

48-305. Proceeding in Superior Court to ascertain violations; search warrant.

48-306. Recorder of Deeds to make regulations.

48-307. Actions in tort permissible.

§ 48-301. Definitions.

The following words shall, in addition to their ordinary meaning, have the meaning herein given:

(1) The word “person” or “persons,” in §§ 48-302 to 48-305 and 48-307 shall include firms or corporations.

(2) The word “vessel” or “vessels,” in §§ 48-302 to 48-305 shall include cans, bottles, siphons, and boxes.

(3) The word “mark” or “marks” shall include labels, trademarks, and all other methods of distinguishing ownership in vessels, whether printed upon labels or blown into bottles or engraved and impressed upon cans or boxes. (Mar. 3, 1901, ch. 854, § 878a; Feb. 27, 1907, 34 Stat. 1006, ch. 2086; 1973 Ed., § 48-301.)

§ 48-302. Filing and publication of vessel description.

Persons engaged in producing, manufacturing, bottling, or selling any lawful beverages composed principally of milk, in vessels with their name, trademark, or other distinctive mark, and the word “registered” branded, engraved, blown, or otherwise produced thereon, or on which a pasted trademark label is put upon which the word “registered” is also distinctly printed, may file with the Recorder of Deeds of the District of Columbia a description by facsimile, or a sample of an original package so marked or branded or blown, showing plainly such names and marks thereon, together with their name in full, or their corporate name, and also their place of business in the District of Columbia, and if so filed shall cause the same to be published for not less than 2 weeks successively in a daily or weekly newspaper published in the District of Columbia. (Mar. 3, 1901, ch. 854, § 878b; Feb. 27, 1907, 34 Stat. 1006, ch. 2086; June 25, 1936, 49 Stat. 1921, ch. 804; July 5, 1966, 80 Stat. 263, Pub. L. 89-493, § 6; 1973 Ed., § 48-302.)

Cross references. — As to labelling of milk containers, see § 10-115.

As to criminal penalty for altering or imitating trademarks, see § 22-1402.

As to milk, cream, and ice cream, see Chapter 3 of Title 33.

As to registration of milk containers, see Chapter 2 of this title.

Section references. — This section is referred to in §§ 48-301, 48-303 and 48-305.

§ 48-303. Unauthorized use, defacing, or sale of registered vessel.

Whoever, except the person who shall have filed and published a description of the same as aforesaid, fills with milk or cream, or other beverage, as aforesaid, with intent to sell the same, any vessel so marked and distinguished as aforesaid, the description of which shall have been filed and published as provided in § 48-302, or defaces, erases, covers up, or otherwise removes or conceals any such name or mark as aforesaid, or the word "registered," thereon, or sells, buys, gives, takes, or otherwise disposes of, or traffics in the same without having purchased the contents thereof from the person whose name is in or upon such vessel, or without the written consent of such person, shall, for the 1st offense, be punished by a fine of not less than \$.50 for each such vessel, or by imprisonment for not less than 10 days nor more than 1 year, or by both such fine and imprisonment; and for each subsequent offense by a fine of not less than \$1 nor more than \$5 for each such vessel, or by imprisonment for not less than 20 days nor more than 1 year, or by both such fine and imprisonment. (Mar. 3, 1901, ch. 854, § 878c; Feb. 27, 1907, 34 Stat. 1007, ch. 2086; 1973 Ed., § 48-303.)

Cross references. — As to criminal penalties for altering or imitating trademarks, see § 22-1402. **Section references.** — This section is referred to in §§ 48-301 and 48-304.

§ 48-304. Use or possession of vessel without purchase of contents prima facie evidence of unlawful use.

The use or possession by any person not engaged in the production or sale of beverage as aforesaid, except the person who shall so have filed and published a description of the same as aforesaid, of any vessel marked or distinguished as aforesaid, the description of which shall have been filed and published as aforesaid, without purchase of the contents thereof from, or the written consent of, the person who shall so have filed and published the said description, shall be prima facie evidence of the unlawful use, possession of, or traffic in, such vessel, and the person so using or in possession of the same, except the person who shall so have filed and published the said description as aforesaid, shall be punished as provided in § 48-303. (Mar. 3, 1901, ch. 854, § 878d; Feb. 27, 1907, 34 Stat. 1007, ch. 2086; 1973 Ed., § 48-304.)

Section references. — This section is referred to in § 48-301.

§ 48-305. Proceeding in Superior Court to ascertain violations; search warrant.

Upon complaint of any person who has complied with § 48-302, or of his agent, to the Superior Court of the District of Columbia, or 1 of the judges thereof, that any person within the District of Columbia is guilty of the violation of any provision of this chapter, the said Court or judge may issue a

search warrant to discover and obtain such vessels as aforesaid and their contents, and may also cause to be brought before the said Court or judge the person so believed to be guilty, or his agent or employee, in whose possession or upon whose wagon or premises any such vessel or vessels may be found; and any such person, agent, or employee found guilty of a violation of any of the provisions of this chapter shall be punished as aforesaid, and the said Court or judge shall also order the property taken upon any such search warrant to be delivered to its owner. (Mar. 3, 1901, ch. 854, § 878e; Feb. 27, 1907, 34 Stat. 1007, ch. 2086; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 48-305.)

Cross references. — As to search warrants, see §§ 23-521 to 23-525.

Section references. — This section is referred to in § 48-301.

§ 48-306. Recorder of Deeds to make regulations.

The Recorder of Deeds of the District of Columbia is authorized to make regulations and prescribe forms for the filing of labels, trademarks, or other distinctive marks under the provisions of this chapter. (Mar. 3, 1901, ch. 854, § 878f; Feb. 27, 1907, 34 Stat. 1007, ch. 2086; June 25, 1936, 49 Stat. 1921, ch. 804; July 5, 1966, 80 Stat. 263, Pub. L. 89-493, § 6; 1973 Ed., § 48-306.)

§ 48-307. Actions in tort permissible.

Nothing in this chapter shall prevent or restrain any person who is the legal owner of a trademark or label from proceeding in an action of tort against any person found guilty of violating this chapter. (Mar. 3, 1901, ch. 854, § 878g; Feb. 27, 1907, 34 Stat. 1007, ch. 2086; 1973 Ed., § 48-307.)

Section references. — This section is referred to in § 48-301.

CHAPTER 4. REGISTRATION OF LABOR UNION LABELS.

Sec.

48-401. Adoption of label authorized; filing;
certified copies.48-402. Unauthorized use of registered label;
injunctive relief.

Sec.

48-403. Penalties.

§ 48-401. Adoption of label authorized; filing; certified copies.

A union or association of employees in the District of Columbia may adopt a device in the form of a label, brand, mark, name, or other character for the purpose of designating the products of the labor of the members thereof. A drawing of such device may be filed in the Office of the Recorder of Deeds of the District of Columbia and the Recorder shall register same in a book to be provided for such purpose and be entitled to collect \$1 for each registration. A certified copy of the drawing may be obtained upon the payment of \$1 for each certification. (Feb. 18, 1932, 47 Stat. 50, ch. 47, § 1; July 5, 1966, 80 Stat. 263, Pub. L. 89-493, § 7(b); 1973 Ed., § 48-401.)

Section references. — This section is referred to in § 48-402.

§ 48-402. Unauthorized use of registered label; injunctive relief.

No person shall in any way use or display the label, brand, mark, name, or other character adopted by any such union or association as provided in § 48-401 without the consent or authority of such union or association; or counterfeit or imitate any such label, brand, mark, name, or other character, or knowingly sell, dispose of, keep, or have in his possession with intent to sell or dispose of any goods, wares, merchandise, or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped, or impressed, or knowingly sell, dispose of, keep, or have in his possession with intent to sell or dispose of any goods, wares, merchandise, or other products of labor contained in any box, case, can, or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed. If copies of such device have been filed, the union or association may maintain an action in the Superior Court of the District of Columbia to enjoin the manufacture, use, display, or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device or of goods bearing the same, and the Court may restrain such wrongful manufacture, use, display, or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display, or sale as may be proved, together with the profits derived therefrom. (Feb. 18, 1932, 47 Stat. 50, ch. 47, § 2; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch.

139, § 127; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(55); 1973 Ed., § 48-402.)

Section references. — This section is referred to in § 48-403.

§ 48-403. Penalties.

A person violating any of the provisions of § 48-402 shall be guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 3 months nor more than 1 year, or by both such fine and imprisonment. (Feb. 18, 1932, 47 Stat. 51, ch. 47, § 3; 1973 Ed., § 48-403.)

Cross references. — As to criminal penalty for altering or imitating trademark, see § 22-1402.

CHAPTER 5. TRADE SECRETS.

Sec.

- 48-501. Definitions.
- 48-502. Injunctive relief.
- 48-503. Damages.
- 48-504. Attorney's fees.
- 48-505. Preservation of secrecy.
- 48-506. Statute of limitations.
- 48-507. Effect on other law.

Sec.

- 48-508. Uniformity of application and construction.
- 48-509. Applicability.
- 48-510. Disclosure of information to enforce the Occupational Safety and Health Act of 1988 and Pesticide Operations Act of 1978.

§ 48-501. Definitions.

For the purposes of this chapter, the term:

(1) "Improper means" means theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

(A) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(i) Used improper means to acquire knowledge of the trade secret; or

(ii) At the time of disclosure or use, knew or had reason to know that the trade secret was:

(I) Derived from or through a person who had utilized improper means to acquire it;

(II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use;

(III) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) Before a material change in his or her position, knew or had reason to know that the information was a trade secret and knowledge of the trade secret had been acquired by accident or mistake.

(3) "Person" means a natural person, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(4) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(A) Derives actual or potential independent economic value, from not being generally known to, and not being readily ascertainable by, proper means by another who can obtain economic value from its disclosure or use; and

(B) Is the subject of reasonable efforts to maintain its secrecy. (Mar. 16, 1989, D.C. Law 7-216, § 2, 36 DCR 519.)

Legislative history of Law 7-216. — Law 7-216, the "Uniform Trade Secrets Act of 1988," was introduced in Council and assigned Bill No. 7-426, which was referred to the Committee on the Judiciary. The Bill was adopted on first

and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-291 and transmitted to both Houses of Congress for its review.

Cited in *Dyer v. William S. Bergman & Assocs.*, App. D.C., 635 A.2d 1285 (1993).

§ 48-502. Injunctive relief.

(a) Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for a reasonable period of time to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(b) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of a misappropriation that renders a prohibitive injunction inequitable.

(c) In appropriate circumstances, an affirmative act to protect a trade secret may be compelled by court order. (Mar. 16, 1989, D.C. Law 7-216, § 3, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-503. Damages.

(a) A complainant is entitled to recover damages for misappropriation, unless a material and prejudicial change of position prior to acquiring knowledge or reason to know of the misappropriation renders a monetary recovery inequitable. Damages may include both the actual loss caused by the misappropriation and the unjust enrichment caused by the misappropriation that is not taken into account in computing actual loss. Instead of damages measured by other methods, the damages caused by misappropriation may be measured by the imposition of liability for a reasonable royalty for the unauthorized disclosure or use of a trade secret by a misappropriator.

(b) If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice the award made under subsection (a) of this section. (Mar. 16, 1989, D.C. Law 7-216, § 4, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-504. Attorney's fees.

The court may award reasonable attorney's fees to the prevailing party if:

- (1) A claim of misappropriation is made in bad faith;
- (2) A motion to terminate an injunction is made or resisted in bad faith; or
- (3) Willful and malicious misappropriation exists. (Mar. 16, 1989, D.C. Law 7-216, § 5, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-505. Preservation of secrecy.

In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, or sealing the records of the action and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval. (Mar. 16, 1989, D.C. Law 7-216, § 6, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-506. Statute of limitations.

An action for misappropriation must be brought within 3 years after the misappropriation is discovered or, by the exercise of reasonable diligence, should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim. (Mar. 16, 1989, D.C. Law 7-216, § 7, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-507. Effect on other law.

(a) Except as provided in subsection (b) of this section, this chapter supersedes conflicting tort, restitution and other law of the District of Columbia providing civil remedies for misappropriation of a trade secret.

(b) This chapter does not affect:

(1) Contractual remedies, whether or not based upon misappropriation of a trade secret;

(2) Other civil remedies that are not based upon misappropriation of a trade secret; or

(3) Criminal remedies, whether or not based upon misappropriation of a trade secret. (Mar. 16, 1989, D.C. Law 7-216, § 8, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-508. Uniformity of application and construction.

This chapter shall be applied and construed to make uniform the law with respect to trade secrets among the District of Columbia and those states enacting it. (Mar. 16, 1989, D.C. Law 7-216, § 9, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-509. Applicability.

This chapter does not apply to misappropriation occurring prior to March 16, 1989. With respect to a continuing misappropriation that began prior to March 16, 1989, the chapter does not apply to the continuing misappropriation that occurs after March 16, 1989. (Mar. 16, 1989, D.C. Law 7-216, § 10, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

§ 48-510. Disclosure of information to enforce the Occupational Safety and Health Act of 1988 and Pesticide Operations Act of 1978.

(a) Nothing in this chapter shall prevent the disclosure of accurate and specific information to the Mayor, other District officers or their representatives, private or public sector employees, or the Occupational Safety and Health Commission if necessary to enforce § 36-1201 et seq.

(b) Nothing in this chapter shall prevent the disclosure of information to the Mayor or other District officers or employees if necessary to enforce the Pesticide Operations Act of 1978. (Mar. 16, 1989, D.C. Law 7-216, § 11, 36 DCR 519.)

Legislative history of Law 7-216. — See note to § 48-501.

References in text. — The “Pesticide Oper-

ations Act of 1978,” referred to in subsection (b), is D.C. Law 2-70, which is not codified.

TITLE 49. COMPILATION AND CONSTRUCTION OF CODE.

Chapter

1. General Provisions..... §§ 49-101 to 49-102.
2. Rules of Construction..... §§ 49-201 to 49-207.
3. Laws Remaining in Force..... §§ 49-301 to 49-304.
4. Law Revision Commission..... §§ 49-401 to 49-405.
5. Nonrevival of Statutes..... § 49-501.
6. General Rule of Severability..... § 49-601.

CHAPTER 1. GENERAL PROVISIONS.

Sec.

49-101. [Repealed].

49-102. District of Columbia Code; preparation and publication; printing.

§ 49-101. Disposition of compilation of laws affecting District of Columbia.

Repealed. Aug. 2, 1983, D.C. Law 5-24, § 18, 30 DCR 3341.

Legislative history of Law 5-24. — Law 5-24, the “Technical and Clarifying Amendments Act of 1983,” was introduced in Council and assigned Bill No. 5-169, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on May 10, 1983, and May 24, 1983, respectively. Signed by the Mayor on June 9, 1983, it was assigned Act No. 5-41 and transmitted to both Houses of Congress for its review.

§ 49-102. District of Columbia Code; preparation and publication; printing.

(a) After publication by the Law Revision Counsel of the fifth annual cumulative supplement to the 1973 Edition of the District of Columbia Code, new editions of the District of Columbia Code (and annual cumulative supplements thereto) shall be prepared and published under the direction of the Council of the District of Columbia and shall set forth the general and permanent laws relating to or in force in the District of Columbia, whether enacted by the Congress or by the Council of the District of Columbia, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in nature.

(b) After completion of the printing of the fifth annual cumulative supplement to the 1973 Edition of the District of Columbia Code, the Public Printer shall, as the Council of the District of Columbia may request, either:

(1) Furnish to the Council of the District of Columbia, on such terms as the Public Printer (in consultation with the Joint Committee on Printing) deems appropriate, the type used in preparing the 1973 Edition of the District of Columbia Code and the fifth annual cumulative supplement to such edition; or

(2) Make such arrangements with the Council of the District of Columbia as the Public Printer (in consultation with the Joint Committee on Printing) deems appropriate for the printing by the Government Printing Office of future editions of the District of Columbia Code, and annual cumulative supplements thereto, prepared under the direction of the Council of the District of Columbia. (1973 Ed., § 49-112; Aug. 14, 1976, 90 Stat. 1170, Pub. L. 94-386, § 2.)

Cross references. — As to acts of Council becoming law, see § 1-227.

As to Council acts and resolutions, see § 1-1602.

As to District of Columbia Statutes-at-Large, see § 1-1603.

CHAPTER 2. RULES OF CONSTRUCTION.

Sec.

49-201. Rules stated.

49-202. Words importing singular number to include plural.

49-203. Gender rule of construction.

49-204. "Person" to include partnerships and corporations.

Sec.

49-205. "Executor" to include "administrator."

49-206. Oath to include affirmation.

49-207. "Insane person" and "lunatic."

§ 49-201. Rules stated.

In the interpretation and construction of this Code the following rules shall be observed. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-201.)

Amendment of act. — An act amendment which does not change a particular provision previously construed by court does not amend away or modify the judicial interpretation previously given the act, as it will be presumed that such construction was in accordance with the legislative intent. *Bardwell v. Petty*, 286 F. 772 (D.C. Cir. 1923).

Particular and general provisions. — Upon appeal to decide conflict between 2 sections, where there is in the same statute, a particular enactment, and also a general one, which in its most comprehensive sense, would include what is embraced in the former, the particular enactment must be operative, and

the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment. *Tri-State Motor Corp. v. Standard Steel Car Co.*, 276 F. 631 (D.C. Cir. 1921).

Clear and unambiguous statute should not be involved in legislative history analysis. — Where there is a decided lack of ambiguity in a statute, it is inappropriate for a reviewing court to consider the statute's legislative history; if the statute is clear and unambiguous on its face, the motivation of the legislators that enacted it is of no concern to a court that is called upon to enforce it. *Burgess v. United States*, App. D.C., 681 A.2d 1090 (1996).

§ 49-202. Words importing singular number to include plural.

Words importing the singular number shall be held to include the plural, and vice versa, except where such construction would be unreasonable. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-202.)

Cross references. — As to rules of construction for acts and resolutions of Council, see §§ 1-230 to 1-232.

Application of section. — This section is limited by the reasonableness requirement that says, in effect, the rule does not apply if another approach, based on other sound interpretative

criteria, is more persuasive; courts do not apply this section unless and until other traditional approaches to statutory construction so indicate. In *re M.M.D.*, App. D.C., 662 A.2d 837 (1995).

Cited in *Ysla v. Lopez*, App. D.C., 684 A.2d 775 (1996).

§ 49-203. Gender rule of construction.

Unless the Council of the District of Columbia specifically provides that this section shall be inapplicable to a particular act or section, all the words thereof importing 1 gender include and apply to the other gender as well. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-203; June 4, 1982, D.C. Law 4-111, § 2(a), 29 DCR 1684.)

Cross references. — As to rules of construction for acts and resolutions of Council, see §§ 1-230 to 1-232.

Legislative history of Law 4-111. — Law 4-111, the “Anti-Sex-Discriminatory Language Act and Uniform Disposition of Unclaimed Property Act of 1980 Amendments Act of 1982,” was introduced in Council and assigned Bill No. 4-374, which was referred to the Committee on the Judiciary. The Bill was adopted on first

and second readings on March 9, 1982 and March 23, 1982, respectively. Signed by the Mayor on April 12, 1982, it was assigned Act No. 4-174 and transmitted to both Houses of Congress for its review.

Same-sex marriages not recognized. — Neither the Gender Rule of Construction nor § 1-230, requires recognition of same-sex marriages in the District. *Dean v. District of Columbia*, App. D.C., 653 A.2d 307 (1995).

§ 49-204. “Person” to include partnerships and corporations.

The word “person” shall be held to apply to partnerships and corporations, unless such construction would be unreasonable, and the reference to any officer shall include any person authorized by law to perform the duties of his office, unless the context shows that such words were intended to be used in a more limited sense. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-204.)

Cross references. — As to rules of construction for acts and resolutions of Council, see §§ 1-230 to 1-232.

§ 49-205. “Executor” to include “administrator.”

Wherever the word “executor” is used it shall include “administrator,” and vice versa, unless such application of the term would be unreasonable. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-205.)

Cross references. — As to rules of construction for acts and resolutions of Council, see §§ 1-230 to 1-232.

§ 49-206. Oath to include affirmation.

Wherever an oath is required, an affirmation in judicial form, if made by a person conscientiously scrupulous about taking an oath, shall be deemed a sufficient compliance. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-206.)

§ 49-207. “Insane person” and “lunatic.”

The words “insane person” and “lunatic” shall include every idiot, non compos, lunatic, and insane person. (Mar. 3, 1901, 31 Stat. 1189, ch. 854; 1973 Ed., § 49-207.)

Cited in *Bynes v. Scheve*, App. D.C., 435 A.2d 1058 (1981).

CHAPTER 3. LAWS REMAINING IN FORCE.

Sec.

49-301. Common law, principles of equity and admiralty, and acts of Congress.

49-302. Ordinances of Washington and of levy court.

Sec.

49-303. Acts relating to governing bodies of religious denominations.

49-304. Savings provision.

§ 49-301. Common law, principles of equity and admiralty, and acts of Congress.

The common law, all British statutes in force in Maryland on February 27, 1801, the principles of equity and admiralty, all general acts of Congress not locally inapplicable in the District of Columbia, and all acts of Congress by their terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, in force in the District of Columbia on March 3, 1901, shall remain in force except insofar as the same are inconsistent with, or are replaced by, some provision of the 1901 Code. (Mar. 3, 1901, 31 Stat. 1189, ch. 854, § 1; 1973 Ed., § 49-301.)

Cross references. — As to age of majority, see note following § 21-101.

This section has been adopted from the common law. *Parker v. United States*, App. D.C., 406 A.2d 1275 (1979).

This section is general legislative declaration affirming preexisting decisions upon the subject. *Moss v. United States*, 23 App. D.C. 475 (1904).

Savings clause. — Under this section, the general savings provision in 1 U.S.C. § 109 applies in the District of Columbia and prevents the abatement of prosecutions begun, but not completed, prior to the expiration of temporary criminal legislation. *United States v. Barnes*, 118 WLR 1709 (Super. Ct. 1990); *United States v. Jones*, 118 WLR 1837 (Super. Ct. 1990).

The general federal savings clause is an act of Congress applicable to the District of Columbia, and that clause shifts the common law presumption of abatement, and provides that penalties incurred under a temporary statute will not abate upon the statute's expiration, unless the statute expressly so provides. *United States v. Alston*, App. D.C., 580 A.2d 587 (1990).

Common law remains in force. — Except as repealed by express statutory provision, or modified by inconsistent legislation, or where it has become obsolete or unsuited to our republican form of government, the common law of England in all its branches, both civil and criminal, remains today the law of the District of Columbia. *Lisner v. Hughes*, 258 F. 512 (D.C. Cir. 1919).

This section intended to encompass the common law of England as it existed in Maryland

on Feb. 27, 1801, and so far as it had not become obsolete or unsuited to our conditions, and it was not identical with the common law of England. *Burdick v. Burdick*, 33 F. Supp. 921 (D.D.C. 1940), rev'd on other grounds sub nom. *Gertman v. Burdick*, 123 F.2d 924 (D.C. Cir. 1941), cert. denied, 315 U.S. 824, 62 S. Ct. 917, 86 L. Ed. 1220 (1942).

The common law, both civil and criminal, except as repealed by express statutory provision or modified by inconsistent legislation, remains the law of the District of Columbia. *Elmhurst v. Shoreham Hotel*, 58 F. Supp. 484 (D.D.C. 1945), aff'd, 153 F.2d 467 (D.C. Cir. 1946).

The common law and all British statutes in force in Maryland on February 27, 1801, remain in force, in District of Columbia, except insofar as they are inconsistent with or are repealed by subsequent legislation of Congress. *United States v. Davis*, 71 F. Supp. 749 (D.D.C. 1947), modified, 167 F.2d 228 (D.C. Cir.), cert. denied, 334 U.S. 849, 68 S. Ct. 1501, 92 L. Ed. 1772 (1948).

This section intends that the system of the common law unwritten and dynamic, not its then-current pronouncements on specific problems, should remain in force. *Linkins v. Protestant Episcopal Cathedral Found.*, 187 F.2d 357 (D.C. Cir. 1950).

The common law, particularly as derived from the common law of Maryland, is the fundamental part of the law in the District of Columbia to which court will look in absence of statutory enactment. *Linkins v. Protestant Episcopal Cathedral Found.*, 187 F.2d 357 (D.C. Cir. 1950).

This section provides that all consistent com-

mon law in force in Maryland at the time of the cession of the District of Columbia remains in force as part of the law of the District unless repealed or modified by statute. *O'Connor v. United States*, App. D.C., 399 A.2d 21 (1979); *United States v. Tucker*, App. D.C., 407 A.2d 1067 (1979).

Blind allegiance to common law not required. — This section does not demand blind allegiance, particularly as to common law. *White v. Parnell*, 397 F.2d 709 (D.C. Cir. 1968).

Common law may be changed. — This section established the common law as the law in District of Columbia but did not purport to freeze that law into its 1901 or 1908 mold so that it could not expand to meet the changes of a dynamic society. *Linkins v. Protestant Episcopal Cathedral Found.*, 187 F.2d 357 (D.C. Cir. 1950).

This section was not intended by Congress to freeze the common law at a particular date and act as a bar to the judicial function of revising and enlarging the common law. *United States v. Tucker*, App. D.C., 407 A.2d 1067 (1979); *Nelson v. Nelson*, App. D.C., 548 A.2d 109 (1988).

Force given to British laws. — This section gives to the British laws only that force which they previously had in this tract of territory under the laws of Maryland. *Manoukian v. Tomasian*, 237 F.2d 211 (D.C. Cir. 1956), cert. denied, 352 U.S. 1026, 77 S. Ct. 588, 1 L. Ed. 2d 596 (1957).

"British statutes in force in Maryland on February 27, 1801". — "British statutes in force in Maryland on February 27, 1801", was intended by Congress to mean those British statutes to the benefit of which Maryland inhabitants were entitled under the Maryland Declaration of Rights of 1776, and did not incorporate in the District of Columbia law, as amending the common law or otherwise, British statutes enacted between 1776 and 1801. *Burdick v. Burdick*, 33 F. Supp. 921 (D.D.C. 1940), rev'd on other grounds sub nom. *Gertman v. Burdick*, 123 F.2d 924 (D.C. Cir. 1941), cert. denied, 315 U.S. 824, 62 S. Ct. 917, 86 L. Ed. 1220 (1942).

Other English law not embraced. — Common law of District does not embrace English case of 1799 or 1805 and English statute passed in 1800. *Gertman v. Burdick*, 123 F.2d 924 (D.C. Cir. 1941), cert. denied, 315 U.S. 824, 62 S. Ct. 917, 86 L. Ed. 1220 (1942).

General laws of Congress applicable to District. — By this section Congress chose to make its general laws applicable to the District of Columbia unless those laws were locally inapplicable or inconsistent with some other provision of the District of Columbia Code. *United States v. Brown*, App. D.C., 422 A.2d 1281 (1980).

Federal statutes of limitation applicable in District. — This section makes 18 U.S.C.

§§ 3281 and 3282, federal statutes of limitation, applicable in the District of Columbia. *United States v. Brown*, App. D.C., 422 A.2d 1281 (1980).

Doctrine of transferred intent made applicable to § 22-2401. — The doctrine of transferred intent, whereby one who intends to kill one person and kills a bystander instead is deemed to have committed whatever form of homicide would have been committed had he killed the intended victim, is applicable to § 22-2401 through this section. *United States v. Sampol*, 636 F.2d 621 (D.C. Cir. 1980), overruled on other grounds, 717 F.2d 1444 (D.C. Cir. 1983).

Laws of Maryland applicable. — Congress by this section provided that laws of Maryland shall be and continue in force in that part of the District which was ceded by that State to the United States. *Clawans v. Sheetz*, 92 F.2d 517 (D.C. Cir. 1937).

Use of Maryland decisions in interpreting District laws. — Maryland statutes and Maryland decisions of date later than 1801 do not constitute the law of the District of Columbia but later decisions of the court of last resort of Maryland may be looked to for assistance, not merely in interpreting the law which was inherited from that state by the District of Columbia, but also in interpreting later statutes of the District which are the same or closely similar to those of Maryland. *Watkins v. Rives*, 125 F.2d 33 (D.C. Cir. 1942).

The United States Court of Appeals for the District of Columbia is not bound to follow decisions of the courts of Maryland, particularly if they were handed down subsequent to the organization of the District of Columbia. *Blair v. Prudential Ins. Co. of Am.*, 472 F.2d 1356 (D.C. Cir. 1972).

Pending suits. — In the matter of procedure or practice, pending suits must be governed by the provisions of the 1901 Code where the procedure does not affect the substantial rights of parties, but where the procedure does affect the substantial rights of parties the 1901 Code shall not apply as to the pending suits, but only the old law. *Costello v. Palmer*, 20 App. D.C. 210 (1902).

Common-law crimes. — All common-law offenses not covered by statute in force in the District of Columbia are still recognized as crimes in the District and are punishable as such. *United States v. Davis*, 71 F. Supp. 749 (D.D.C. 1947), modified, 167 F.2d 228 (D.C. Cir.), cert. denied, 334 U.S. 849, 68 S. Ct. 1501, 92 L. Ed. 1772 (1948).

Negligence suits. — Whether to apply the *lex loci* or *lex fori* depends whether the accident occurred in Maryland or the District of Columbia. However, because a case was ultimately governed by common law principles of negligence, the *lex loci* and *lex fori* were substan-

tially identical. *Robinson v. Roberts*, 122 WLR 521 (Super. Ct. 1994).

Arrest without warrant. — In the District, and at common law, an officer may not arrest for misdemeanor without warrant unless it is committed in his presence or within his view. *Maghan v. Jerome*, 88 F.2d 1001 (D.C. Cir. 1937).

Right to jury trial. — It is not necessary that a statute establishing a former common law offense which was jury-triable as a statutory offense which is not jury-triable expressly eliminate the common law right to jury trial. *Day v. United States*, App. D.C., 682 A.2d 1125 (1996).

Selection of jurors. — The 1901 Code supersedes prior law relative to selection of grand and petit jurors. *Clark v. United States*, 19 App. D.C. 295 (1902).

Instruction making jurors judges of law as well as facts. — In a prosecution under § 9-112, the court did not err in refusing to give requested instruction, essence of which was jury nullification and would have made jurors judges of the law as well as facts. *Arshack v. United States*, App. D.C., 321 A.2d 845 (1974).

Qualified guilty verdict in murder and rape cases. — Act of January 15, 1897 (29 Stat. 487), and § 330 of ch. 14 of the Federal Penal Code permitting jury to qualify verdict of guilty in cases of murder and rape were superseded by this Code. *Johnson v. United States*, 38 App. D.C. 347, aff'd, 225 U.S. 405, 32 S. Ct. 748, 56 L. Ed. 1142 (1912).

Courts of District bound to observe full faith and credit. — When rights have ripened into a judgment of a court in another state, the full faith and credit clause applies and courts of the District are bound, equally with courts of the states, to observe the command of the full faith and credit clause, wherever applicable. *Loughran v. Loughran*, 292 U.S. 216, 54 S. Ct. 684, 78 L. Ed. 1219 (1934).

No statute has enlarged scope of common-law writ of certiorari in the District, and when sought between private persons, the writ will be granted or denied, in the sound discretion of the court. *United States ex rel. Eure v. Borden*, 80 F.2d 527 (D.C. Cir. 1936).

Court did not consider argument that Superior Court has vestigial common-law authority under this section to issue writs ad testificandum extraterritorially. *Christian v. United States*, App. D.C., 394 A.2d 1 (1978), cert. denied, 442 U.S. 944, 99 S. Ct. 2889, 61 L. Ed. 2d 315 (1979).

28 U.S.C. § 815 applicable. — Section 815 of Title 28 of the United States Code, disallowing costs to plaintiff recovering less than \$500 in action brought in District Court of United States where jurisdictional amount exceeds such sum, is applicable to District Court of the United States for the District of Columbia.

Silverman v. Central Amusement Co., 49 F. Supp. 364 (D.D.C. 1943).

Person legally becomes 18 years old on day of his birthday and not the day before for purposes of § 16-2301(3). *United States v. Tucker*, App. D.C., 407 A.2d 1067 (1979).

Law of wills and probate as existing in Maryland on February 27, 1801, is the law of the District of Columbia except as altered by Congress. In *re Lee's Estate*, 80 F. Supp. 293 (D.D.C. 1948).

Descent of property. — Common law is held to prevail in the District as to descent of property. *Cunningham v. Rodgers*, 267 F. 609 (D.C. Cir. 1920), aff'd, 257 U.S. 466, 42 S. Ct. 149, 66 L. Ed. 319 (1922), but see, *Johnson v. Martin*, 567 A.2d 1299 (D.C. 1989).

Accumulation of income from testamentary trust. — The common law, insofar as it permits accumulation of income from a testamentary trust involving the accumulation of a huge sum of money for a period probably in excess of 60 years, is obsolete and repugnant to our conditions, and therefore not applicable to the District of Columbia. *Burdick v. Burdick*, 33 F. Supp. 921 (D.D.C. 1940), rev'd on other grounds sub nom. *Gertman v. Burdick*, 123 F.2d 924 (D.C. Cir. 1941), cert. denied, 315 U.S. 824, 62 S. Ct. 917, 86 L. Ed. 1220 (1942).

Medical care for dependent minor offspring. — There exists a parental duty at common law in the District of Columbia to provide medical care for dependent minor offspring. *Faunteroy v. United States*, App. D.C., 413 A.2d 1294 (1980).

Common law as to surface waters prevails. *Baltimore & O.R.R. v. Thomas*, 37 App. D.C. 255 (1911).

Common-law offense of negligent escape remains a crime in the District of Columbia by virtue of this section. *United States v. Davis*, 71 F. Supp. 749 (D.D.C. 1947), modified, 167 F.2d 228 (D.C. Cir.), cert. denied, 334 U.S. 849, 68 S. Ct. 1501, 92 L. Ed. 1772 (1948).

Compact between Maryland and Virginia regarding shores of Potomac River is not in force in District. *United States ex rel. Greathouse v. Hurley*, 63 F.2d 137 (D.C. Cir.), aff'd sub. nom. *United States ex rel. Greathouse v. Dern*, 289 U.S. 352, 53 S. Ct. 614, 77 L. Ed. 1250 (1933).

Maryland provision on Sunday work inapplicable in District. — A Maryland statute relative to Sunday work does not apply in District of Columbia. *District of Columbia v. Robinson*, 30 App. D.C. 283 (1908).

Espionage Act. — Provisions of the Espionage Act apply in the District of Columbia in a case of a violation of a United States statute applicable only to the District. *Nuckols v. United States*, 99 F.2d 353 (D.C. Cir.), cert. denied, 305 U.S. 626, 59 S. Ct. 89, 83 L. Ed. 401 (1938).

Cited in *Palmer v. Lenovitz*, 35 App. D.C. 303 (1910); *Milano v. United States*, 40 App. D.C. 379 (1913); *Colts v. District of Columbia*, 38 F.2d 535 (D.C. Cir.), *aff'd*, 282 U.S. 63, 51 S. Ct. 52, 75 L. Ed. 177 (1930); *Pitts v. Peak*, 50 F.2d 485 (D.C. Cir.), *cert. denied*, 284 U.S. 640, 52 S. Ct. 21, 76 L. Ed. 544 (1931); *Association of W. Rys. v. Riss & Co.*, 320 F.2d 785 (D.C. Cir. 1963); *Lomax v. Spriggs*, App. D.C., 404 A.2d 943 (1979); *Perkins v. United States*, App. D.C., 446 A.2d 19 (1982); *Logan v. United States*, App. D.C., 483 A.2d 664 (1984); *In re Metro Subway Accident Referral*, 630 F. Supp. 385 (D.D.C. 1984), *aff'd sub nom. Keener v. Washington Metro. Area Transit Auth.*, 800 F.2d 1173 (D.C. Cir. 1986), *cert. denied*, 480 U.S. 918, 107 S. Ct. 1375, 94 L. Ed. 2d 690 (1987); *O'Connell v. Maryland Steel Erectors, Inc.*, App. D.C., 495 A.2d 1134 (1985); *Nelson v. Nelson*, 114 WLR 2437 (Super. Ct. 1986); *National R.R. Passen-*

ger Corp. v. Consolidated Rail Corp., 670 F. Supp. 424 (D.D.C. 1987); *United States v. Jackson*, App. D.C., 528 A.2d 1211 (1987); *Delahanty v. Hinckley*, 845 F.2d 1069 (D.C. Cir. 1988); *Williams v. United States*, App. D.C., 569 A.2d 97 (1989); *United States v. McNeil*, 911 F.2d 768 (D.C. Cir. 1990); *Comber v. United States*, App. D.C., 584 A.2d 26 (1990); *United States v. Alston*, 118 WLR 819 (Super. Ct. 1990); *Brown v. Green*, 767 F. Supp. 273 (D.D.C. 1991); *United States v. Hobbs*, 119 WLR 673 (Super. Ct. 1991); *In re C.A.P.*, App. D.C., 633 A.2d 787 (1993); *Peoples v. United States*, App. D.C., 640 A.2d 1047 (1994); *Riley v. United States*, App. D.C., 647 A.2d 1165 (1994); *Jimmerson v. Kaiser Found. Health Plan of the Mid-Atlantic States, Inc.*, App. D.C., 663 A.2d 540 (1995); *United States v. Holiday, Etc.*, 123 WLR 1957 (Super. Ct. 1995); *Heard v. United States*, App. D.C., 686 A.2d 1026 (1996).

§ 49-302. Ordinances of Washington and of levy court.

All laws and ordinances of the City of Washington, and of the levy court of the District of Columbia, except as modified or repealed by Congress or the Legislative Assembly of the District since June 1, 1871, or until so modified or repealed, remain in full force. (R.S., D.C., § 91; Comp. Stat. D.C., § 4; Feb. 11, 1895, 28 Stat. 650, ch. 79; 1973 Ed., § 49-302.)

§ 49-303. Acts relating to governing bodies of religious denominations.

All acts and parts of acts relating to the organization and powers of vestries, trustees, or other governing bodies of any religious denomination shall remain in force except insofar as the same are inconsistent with or are replaced by the provisions of this Code. (Mar. 3, 1901, 31 Stat. 1189, ch. 854, § 1636; June 30, 1902, 32 Stat. 546, ch. 1329; 1973 Ed., § 49-303.)

Section references. — This section is referred to in § 29-503.

§ 49-304. Savings provision.

(a) The repeal of any act of the Council shall not release or extinguish any penalty, forfeiture, or liability incurred pursuant to the act, and the act shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability, unless the repealing act expressly provides for the release or extinguishment of any penalty, forfeiture, or liability.

(b) The expiration of any act of the Council shall not release or extinguish any penalty, forfeiture, or liability incurred pursuant to the act, and the act shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability, unless the expiring act expressly provides for the release or extinguishment of

any penalty, forfeiture, or liability. (Apr. 6, 1990, D.C. Law 8-102, § 2, 37 DCR 1476; Sept. 26, 1990, D.C. Law 8-165, § 2, 37 DCR 4827.)

Repeal and Savings Provisions of 1901 Code. — Sections 1636 to 1643 of the Act of March 3, 1901, 31 Stat. 1434, ch. 854, provided that:

“Sec. 1636. All acts and parts of acts of the general assembly of the State of Maryland general and permanent in their nature, all like acts and parts of acts of the legislative assembly of the District of Columbia, and all like acts and parts of acts of Congress applying solely to the District of Columbia in force in said District on the day of the passage of this act are hereby repealed, except:

“First. Acts and parts of acts relating to the rights, powers, duties, or obligations of the United States.

“Second. Acts and parts of acts relating to the Court of Claims.

“Third. Acts and parts of acts relating to the organization of the District government, or to its obligations, or the powers or duties of the Commissioners of the District of Columbia, or their subordinates or employees, or to police regulations, and generally all acts and parts of acts relating to municipal affairs only, including those regulating the charges of public-service corporations.

“Fourth. Acts and parts of acts relating to the militia.

“Fifth. All penal statutes authorizing punishment by fine only or by imprisonment not exceeding one year, or both.

“Sixth. Acts and parts of acts of Congress relating solely to the Departments of the General Government in the District of Columbia, or any of them.

“Seventh. Acts or parts of acts authorizing, defining, and prescribing the organization, powers, duties, fees, and emoluments of the register of wills of the District of Columbia and his office.

“Eighth. An act to regulate the practice of pharmacy in the District of Columbia, approved June fifteenth, eighteen hundred and seventy-eight; an act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June sixth, eighteen hundred and ninety-two; an act regulating the construction of buildings along alleyways in the District of Columbia, approved July twenty-second, eighteen hundred and ninety-two; an act for the promotion of anatomical science, and to prevent the desecration of graves in the District of Columbia, approved February twenty-sixth, eighteen hundred and ninety-five; an act to provide for the incorporation and regulation of medical and dental colleges in the District of Columbia, approved May fourth, eigh-

teen hundred and ninety-six; an act relating to the testimony of physicians in the courts of the District of Columbia, received by the President May thirteenth, eighteen hundred and ninety-six; an act to regulate the practice of medicine and surgery, to license physicians and surgeons, and to punish persons violating the provisions thereof in the District of Columbia, approved June third, eighteen hundred and ninety-six; and, generally, all acts or parts of acts relating to medicine, dentistry, pharmacy, the commitment of the insane to the Government Hospital for the Insane in the District of Columbia, the abatement of nuisances, and public health.

“Ninth. Acts and parts of acts relating to the organization and powers of vestries, trustees, or other governing bodies of any religious denomination.

“All acts and parts of acts included in the foregoing exceptions, or any of them, shall remain in force except in so far as the same are inconsistent with or are replaced by the provisions of this code.”

“Sec. 1637. The incorporation into this code of any general and permanent provision taken from an act making appropriations, or from an act containing other provisions of a private or temporary character, shall not repeal nor in any way affect any appropriation or any provision of a private or temporary character contained in any of said acts, but the same shall remain in force.”

“Sec. 1638. The repeal by the preceding section of any statute, in whole or in part, shall not affect any act done or any right accruing or accrued or any suit or proceeding had or commenced in any civil cause before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue and may be enforced in the same manner as if such repeal had not been made: Provided, that the provisions of this code relating to procedure or practice and not affecting the substantial rights of parties shall apply to pending suits or proceedings civil or criminal.”

“Sec. 1639. The enactment of this code is not to affect or repeal any act of Congress which may be passed between the date of this act and the date when this act is to go into effect; and all acts of Congress that may be passed hereafter are to have full effect as if passed after the enactment of this code, and, so far as such acts may vary from or conflict with any provision contained in this code, they are to have effect as subsequent statutes and as repealing any portion of this act inconsistent therewith.”

“Sec. 1640. Nothing in the repealing clause of this code contained shall be held to affect the

operation or enforcement in the District of Columbia of the common law or of any British statute in force in Maryland on the twenty-seventh day of February, eighteen hundred and one, or of the principles of equity or admiralty, or of any general statute of the United States not locally inapplicable in the District of Columbia or by its terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, or of any municipal ordinance or regulation, except in so far as the same may be inconsistent with, or is replaced by, some provision of this code."

"Sec. 1641. All offenses committed and all penalties or forfeitures incurred in the District prior to the date on which this code is to take effect may be prosecuted and punished in the same manner and with the same effect as if this code had not been enacted."

"Sec. 1642. Where any action or proceeding by the provisions of chapter forty-one of this code would be barred at the time it goes into effect, or within one year thereafter, which would not be so barred by prior laws, such action or proceeding may be brought or instituted within such period of one year, anything in said chapter to the contrary notwithstanding."

"Sec. 1643. That nothing herein contained shall be held to affect the term of office of any judicial or other officer holding office when this code goes into effect and operation, except when, as in the case of the present justices of the peace and constables, a contrary intention is manifested."

Legislative history of Law 8-102. — Law 8-102, the "District of Columbia Statutory Savings Provision Temporary Act of 1990," was introduced in Council and assigned Bill No. 8-500. The Bill was adopted on first and second readings on January 16, 1990, and January 30, 1990, respectively. Signed by the Mayor on February 18, 1990, it was assigned Act No. 8-156 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-165. — Law 8-165, the "District of Columbia Statutory Savings Provision Act of 1990," was introduced in Council and assigned Bill No. 8-552, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 12, 1990, and June 26, 1990, respectively. Signed by the Mayor on July 12, 1990, it was assigned Act No. 8-230 and transmitted to both Houses of Congress for its review.

Effective date of change in sentencing requirements. — Both this and the federal savings statute, 1 U.S.C. § 109, preserve mandatory-minimum sentences in all cases under § 33-541 where the offense was committed before May 25, 1995, the effective date of the repeal of the mandatory-minimum sentencing provisions of § 33-541 (c). *Holiday v. United States*, App. D.C., 683 A.2d 61 (1996).

This savings statute did not require the mandatory minimums of § 33-541 to remain in effect for criminal defendants prosecuted before May 25, 1995, even if they were sentenced after the effective date of the repeal of mandatory-minimum sentences. *United States v. Palmer*, 124 WLR 277 (Super. Ct. 1995).

General savings provision of this section would not apply to forestall application of § 33-541, repealing mandatory minimum sentencing for possession of a controlled substance. *United States v. Palmer*, 124 WLR 277 (Super. Ct. 1995).

Act of Legislative Assembly for preventing cruelty to animals. — An act of the Legislative Assembly of the District, August 23, 1871, for the prevention of cruelty to animals, codified as § 22-801 et seq., was not repealed by § 1636 of the Act of Mar. 3, 1901, 31 Stat. 1434, ch. 854, codified as a note to this section, as that section expressly saved from repeal all acts of the Legislative Assembly relating to police regulations. *Johnson v. District of Columbia*, 30 App. D.C. 520 (1908).

CHAPTER 4. LAW REVISION COMMISSION.

Sec.

49-401. Established; composition; term of office; residency requirement; vacancies; compensation; requests for information; power to enter into contracts.

Sec.

49-402. Duties.

49-403. Annual report.

49-404. Appropriations.

49-405. Effective date.

§ 49-401. Established; composition; term of office; residency requirement; vacancies; compensation; requests for information; power to enter into contracts.

(a) There is established in the District of Columbia a District of Columbia Law Revision Commission (hereafter referred to as the "Commission") which shall consist of no more than 17 members to be appointed as follows:

(1) Three members shall be appointed by the Mayor of the District of Columbia, 1 of whom shall be a member of the faculty of a law school in the District of Columbia and 1 of whom shall be a nonlawyer;

(2) Four members shall be appointed by the Council of the District of Columbia upon the recommendation of the Chairman of the Council of the District of Columbia, 1 of whom shall be a nonlawyer and 1 of whom shall be a member of the faculty of a law school in the District of Columbia;

(3) Three members may be appointed by the Joint Committee on Judicial Administration in the District of Columbia, 1 of whom shall be a nonlawyer;

(4) One member shall be appointed by the Corporation Counsel of the District of Columbia;

(5) Two members may be appointed by the Board of Governors of the District of Columbia Bar;

(6) One member shall be appointed by the Director of the District of Columbia Public Defender Service;

(7) One member may be appointed by the President of the United States;

(8) One member may be appointed by the Chairman of the Committee on Governmental Affairs of the Senate; and

(9) One member may be appointed by the Chairman of the Committee on the District of Columbia of the House of Representatives.

(b) Any person who is currently serving a term under the District of Columbia Law Revision Commission Act which does not expire on or before March 31, 1981, may remain in office until the expiration of that term. If a person remains in office, then that person is included in determining the total number of appointments available to each appointing authority under subsection (a) of this section; provided, that:

(1) The President of the United States may appoint a member to the Commission under subsection (a) of this section only after the expiration of the term or resignation of those persons appointed by the President of the United States under the District of Columbia Law Revision Commission Act;

(2) The Chairman of the Committee on Governmental Affairs of the Senate may appoint a member to the Commission under subsection (a) of this

section only after the expiration of the term or resignation of those persons appointed by the President Pro Tempore of the Senate and the minority leader of the Senate under the District of Columbia Law Revision Commission Act; and

(3) The Chairman of the Committee on the District of Columbia of the House of Representatives may appoint a member to the Commission under subsection (a) of this section only after the expiration of the term or resignation of those persons appointed by the Speaker of the House of Representatives and the minority leader of the House of Representatives under the District of Columbia Law Revision Commission Act.

(c) Except as provided in subsection (d) of this section, no person may be appointed as a member of the Commission after the effective date of this chapter unless he or she is a bona fide resident of the District of Columbia who has maintained an actual place of abode in the District of Columbia for at least 90 days immediately prior to his or her appointment to the Commission.

(d) Notwithstanding the provisions of subsection (c) of this section, the residency requirements of the District of Columbia Law Revision Commission Act shall be applied to any person previously appointed to the Commission under that Act.

(e) Members of the Commission shall serve for 4-year terms and may be reappointed for no more than 2 consecutive terms.

(f) The Chairman of the Commission shall be selected by the members of the Commission from among their number.

(g) Appointments to fill vacancies on the Commission shall be made in the same manner, and on the same basis, as original appointments to the Commission. A member appointed to fill a vacancy shall serve until the expiration of the term of the member whose vacancy he or she was appointed to fill.

(h) Members and the Chairman of the Commission shall be entitled to receive compensation (including travel time) in accordance with the provisions of § 1-612.8, except no member or the Chairman of the Commission shall receive more than \$5,000 for the performance of such duties during any 12-month period.

(i) The Commission may request from any department, agency, or instrumentality of the executive branch of the District of Columbia or federal government, including independent agencies, any information necessary to carry out the provisions of this chapter. Each department, agency, instrumentality, or independent agency of the District of Columbia is authorized and directed, to the extent permitted by law, to furnish the Commission the requested information.

(j) The Commission may enter into contracts for which sufficient appropriations are authorized and provided with federal or state agencies, private firms, institutions and individuals to conduct research or surveys, prepare reports and perform other activities necessary to the discharge of its duties; provided, that the Commission shall contract with vendors based in the District of Columbia who pay an unincorporated or incorporated business franchise tax, unless the Commission Chairperson confirms in writing, in

advance of contracting, to the Mayor and the Chairman of the Council of the District of Columbia that such goods and services are not reasonably and competitively available from a vendor based in the District of Columbia.

(k) The Commission may establish such advisory groups, committees, or subcommittees, consisting of members or nonmembers, as it deems necessary and appropriate to carry out the purposes of this chapter. (Feb. 26, 1981, D.C. Law 3-119, § 2, 27 DCR 5641.)

Legislative history of Law 3-119. — Law 3-119, the “District of Columbia Law Revision Commission Act of 1980,” was introduced in Council and assigned Bill No. 3-324, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on December 18, 1980, it was assigned Act No. 3-313 and transmitted to both Houses of Congress for its review.

References in text. — The District of Columbia Law Revision Commission Act, referred to throughout this section, is the Act of August 21, 1974, 88 Stat. 483, Pub. L. 93-379, D.C. Law 3-119, codified as § 1-604.6 and this chapter.

Appropriations. — The District of Columbia Appropriations Act, 1992, Pub. L. 102-111, contained no appropriation for the Law Revision Commission and subsequent appropriations acts have not restored any appropriation.

§ 49-402. Duties.

It shall be the duty of the Commission to do the following:

(1) Examine the common law and statutes relating to the District of Columbia, the ordinances, regulations, resolutions, and acts of the Council, and all relevant judicial decisions for the purpose of discovering defects and anachronisms in the law relating to the District of Columbia and recommending needed reforms;

(2) Receive and consider proposed changes in the law recommended by the American Law Institute, the Conference of Commissioners on Uniform State Laws, any bar association, or other learned bodies;

(3) Receive and consider suggestions from judges, public officials, lawyers, and the public generally as to defects and anachronisms in the law relating to the District of Columbia;

(4) Recommend, from time to time, to the Council of the District of Columbia such changes in the law relating to the District of Columbia as it deems necessary to modify or eliminate antiquated or inequitable rules of law, and to bring the civil, criminal, and administrative law relating to the District of Columbia into harmony with modern conditions;

(5) Upon request of the Council of the District of Columbia or the Chairman of the Council of the District of Columbia, study the legislative and rulemaking methods, practices, and procedures used by the District of Columbia government and make recommendations for improvement and modernization. (Feb. 26, 1981, D.C. Law 3-119, § 3, 27 DCR 5641.)

Legislative history of Law 3-119. — See note to § 49-401.

§ 49-403. Annual report.

The Commission shall make an annual report of its proceedings to the Council of the District of Columbia and the Mayor by March 31st of each year. The report shall contain the following:

(1) A list of all topics considered by the Commission during the reported year;

(2) The final disposition of all the topics;

(3) The number of hearings held;

(4) Suggested legislative changes;

(5) A discussion of any problems which may have arisen after a change in legislation; and

(6) The agenda of the Commission for the next reporting year. (Feb. 26, 1981, D.C. Law 3-119, § 4, 27 DCR 5641.)

Legislative history of Law 3-119. — See note to § 49-401.

§ 49-404. Appropriations.

Appropriations are authorized to carry out the purposes of this chapter. (Feb. 26, 1981, D.C. Law 3-119, § 6, 27 DCR 5641.)

Legislative history of Law 3-119. — See note to § 49-401.

§ 49-405. Effective date.

This chapter shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in § 1-233(c)(1); provided, that this chapter shall not take effect prior to March 31, 1981. (Feb. 26, 1981, D.C. Law 3-119, § 7, 27 DCR 5641.)

Legislative history of Law 3-119. — See note to § 49-401.

CHAPTER 5. NONREVIVAL OF STATUTES.

Sec.

49-501. Intention of Council not to revive previous repeal unless intention specifically included.

§ 49-501. Intention of Council not to revive previous repeal unless intention specifically included.

As a rule of statutory interpretation, in enacting a statute which includes among its provisions the repeal of a previously enacted repeal (including the repeal of a proviso or an exception), it is not the intention of the Council of the District of Columbia to revive the statute or part thereof which was previously repealed unless such intention to revive the previously repealed statute is specifically included in the language of the statute repealing the previous repealer. (July 2, 1982, D.C. Law 4-125, § 41, 29 DCR 2093.)

Legislative history of Law 4-125. — Law 4-125, the “Presidential Inauguration Special Regulations and Rule of Interpretation Concerning Nonrevival of Statutes Act of 1982,” was introduced in Council and assigned Bill No. 4-406, which was referred to the Committee

of the Whole. The Bill was adopted on first and second readings on April 6, 1982 and April 27, 1982, respectively. Signed by the Mayor on May 11, 1982, it was assigned Act No. 4-190 and transmitted to both Houses of Congress for its review.

CHAPTER 6. GENERAL RULE OF SEVERABILITY.

Sec.

49-601. Established; exceptions.

§ 49-601. Established; exceptions.

(a) Except as provided in subsection (b) of this section, if any provision of any act of the Council of the District of Columbia or the application thereof to any person or circumstance is held to be unconstitutional or beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, the declaration of invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of each act of the Council of the District of Columbia are deemed severable.

(b) The Council of the District of Columbia may provide, within the provisions of a specific act, that the provisions of a specific act are nonseverable or that certain specified provisions are deemed inoperative if certain other provisions of the act are declared invalid. If the Council of the District of Columbia provides for a special nonseverability clause as provided in this subsection, the long title of the act shall reflect the inclusion of a special nonseverability clause. (Mar. 14, 1984, D.C. Law 5-56, § 2, 30 DCR 6286.)

Legislative history of Law 5-56. — Law 5-56, the “General Rule of Severability Adoption Act of 1983,” was introduced in Council and assigned Bill No. 5-253, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 18, 1983 and November 1, 1983, respectively. Signed by the Mayor on November 21, 1983, it was assigned Act No. 5-82 and transmitted to both Houses of Congress for its review.

Absence of nonseverability clause. — Since subsection (b) of this section provides that the Council of the District of Columbia has authority to include a nonseverability clause, where no such clause is contained in an act, such as the District of Columbia Procurement

Practices Act of 1985 (§§ 1-1181.1 to 1-1190.1), the provisions are severable. *RDP Dev. Corp. v. District of Columbia*, App. D.C., 645 A.2d 1078 (1994).

Severability disallowed where exceptions in legislation. — Regulation which prohibited consideration of a liquor or license application made by an enterprise located within 400 feet of a church with 100 or more members, absent the consent of the church, violated the Establishment Clause of the First Amendment to the United States Constitution; it was not severable because the District included exceptions to the ban in the legislation itself, so that an outright ban was not the legislative intent. *Espresso, Inc. v. District of Columbia*, 884 F. Supp. 7 (D.D.C. 1995).



